

5. Every Parsee who shall, after the commencement of this Act and during the life-time of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, shall be subject to the penalties provided in Sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife.

6. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating Priest in the form contained in the Schedule to this Act. The certificate shall be signed by the said Priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said Priest shall thereupon send such certificate, together with a fee of two Rupees, to be paid by the husband, to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

7. For the purpose of this Act a Registrar shall be appointed, who may be the Registrar appointed under Act XVI of 1864 (to provide for the Registration of Assurances.) Within the local limits of the ordinary original Civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and, without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.

8. The Register of Marriages mentioned in the sixth Section shall, at all reasonable times, be open for inspection, and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two Rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

9. Any Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the fourth Section shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred Rupees, or with both.

10. Any Priest neglecting to comply with any of the requisitions affecting him contained in the sixth Section shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred Rupees, or with both.

11. Every other person required by the sixth Section to subscribe or attest the said certificate who shall wilfully omit or neglect so to do shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred Rupees.

12. Every person making, or signing, or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in Section four hundred and sixty-six of the said Code.

13. Any Registrar failing to enter the said certificate pursuant to the sixth Section shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

14. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a Registrar, for a term which may extend to five years, and shall also be liable to fine which may extend to five hundred Rupees.

III.—Of Parsee Matrimonial Courts.

15. For the purposes of hearing suits under this Act, a special Court shall be constituted in each of the Presidency Towns of Calcutta, Madras, and Bombay, and in such other places in the Territories of the several Local Governments as such Governments respectively shall think fit.

16. The Court so constituted in each of the Presidency Towns shall be entitled the Parsee Chief Matrimonial Court of Calcutta, Madras or Bombay, as the case may be. The local limits of the jurisdiction of a Parsee Chief Matrimonial Court shall be conterminous with the local limits of the ordinary original Civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven Delegates.

17. Every Court so constituted at a place other than a Presidency Town shall be entitled the Parsee District Matrimonial Court of such place. Subject to the provisions contained in the next following Section, the local limits of the jurisdiction of such Court shall be conterminous with the limits of the District in which it is held. The Judge of the principal Court of original Civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven Delegates.

18. The Local Government may from time to time alter the local limits of the jurisdiction of any Parsee District Matrimonial Court, and may include within such limits any number of Districts under its government.

19. Any District which the Local Government, on account of the fewness of the Parsee inhabitants, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsee Chief Matrimonial Court for the Territories under such Local Government where there is such Court.

Certain Districts to be within the jurisdiction of the Chief Matrimonial Court.

20. A seal shall be made for every Court constituted under this Act, and all decrees and orders, and copies of decrees and orders of such Court, shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Court Seal.

21. The Local Government shall, in the Presidency Towns and Districts subject to their respective Governments, respectively appoint persons to be Delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsees; their names shall be published in the Official Gazette; and their number shall, within the local limits of the ordinary original Civil jurisdiction of a High Court, be not more than thirty, and in Districts beyond such limits not more than twenty.

22. The appointment of a Delegate shall be for life. But whenever a Delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other Law for the time being in force, then and so often the Local Government may appoint any other person being a Parsee to be a Delegate in his stead, and the name of the person so appointed shall be published in the Official Gazette.

Power to appoint new Delegates.

23. All Delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

Delegates to be deemed public servants.

24. The Delegates selected under the sixteenth and seventeenth Sections to aid in the adjudication of suits under this Act shall be taken, under the orders of the presiding Judge of the Court, in due rotation from the Delegates appointed by the Local Government under the twenty-first Section.

Selection of Delegates under Sections 16 and 17 to be from those appointed under Section 21.

25. All Advocates, Vakeels, and Attornies-at-Law entitled to practise in High Court shall be entitled to practise in any of the Courts constituted under this Act; and all Vakeels entitled to practise in a District Court shall be entitled to practise in any District Matrimonial Court constituted under this Act.

Practitioners in Matrimonial Courts.

26. All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit. When the defendant shall at such time have left British India, such suit

Court in which suits to be brought.

When defendant has left British India.

shall be brought in the Court at the place where the plaintiff and defendant last resided together.

IV.—Of Matrimonial Suits.

(a.) For a Decree of Nullity.

27. If a Parsee at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may, at the instance of his or her wife or husband, be declared null and void upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues. Provided that no suit shall be brought under this Section if the plaintiff shall, at the time of the marriage, have known that the respondent was a lunatic or of habitually unsound mind.

In case of lunacy or mental unsoundness.

28. In any case in which consummation of the marriage is, from natural causes, impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

In case of non-consummation owing to physical causes.

(b.) For a Decree of Dissolution in case of Absence.

29. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

In case of absence for seven years.

(c.) For Divorce or Judicial Separation.

30. Any husband may sue that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married, or fornication with an unmarried woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

On the ground of the wife's adultery.

On the ground of the husband's adultery, &c.

31. If a husband treat his wife with such cruelty or personal violence as to render it, in the judgment of the Court, improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

32. In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at, or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

33. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum, not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

34. The Court may, if it shall think fit on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life as, having regard to her own property (if any), her husband's ability and the conduct of the parties shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price of value of such necessaries.

35. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee if for any reason it shall appear to the Court expedient so to do.

(d.) For Restitution of Conjugal Rights.

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit

with her husband, the party so deserted or with whom cohabitation shall have so ceased may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint, and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both.

37. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage if, at date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

38. In every suit preferred under this Act the case shall be tried with closed doors should such be the wish of either of the parties.

39. Every plaint and petition of appeal preferred under this Act shall bear a stamp of thirty-two Rupees, and all other instruments and writings of the kind specified as requiring a stamp in Schedule B to Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties) and exhibited in a suit under this Act shall be stamped in accordance with the provisions of the said Act No. X of 1862.

40. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

41. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

42. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the

decision appealed from shall have been pronounced.

43. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when, in the result of any appeal, any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death.

Liberty to parties to marry again.

V.—Of the Children of the Parties.

44. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper with respect to the custody, maintenance, and education of the children under the age of sixteen years the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance, and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

Custody of children pendente lite.

Orders as to custody of children after final decree.

45. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof for the benefit of the children of the marriage or any of them.

VI.—Of the Mode of enforcing Penalties under this Act.

46. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Cognizance of offences under this Act.

Punishment of offences under this Act committed within local limits of High Court.

47. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed

by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable, upon summary conviction, by any Magistrate of Police of the place at which such Court is held.

48. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's moveable property by warrant under the hand of the Officer imposing the fine.

49. In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

50. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient moveable property whereupon such fine could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

Imprisonment if no sufficient distress.

VII.—Miscellaneous.

51. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency of Government in which such High Court shall be established as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations, and alterations shall be published in the Official Gazette.

52. The Governor General of India in Council may invest the Chief Executive Officer of any part of British India under the immediate administration of the Government of India with the powers vested by this Act in a Local Government.

Power to invest Chief Executive Officer with powers of Local Government.

53. This Act shall commence and take effect on the first day of September 1865, and shall extend to the whole of British India.

Commencement and extent of Act.

SCHEDULE.—(See Section 6.)

Date and place of Marriage.	Names of the Husband and Wife.	Condition at the time of Marriage.	Rank or Profession.	Rank or Profession.	Residence.	Names of the Fathers or Guardians.	Rank or Profession.	Signature of the Officiating Priest.	Signatures of the Witnesses.	Signature of Father or Guardian when Husband or Wife is an infant.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Dept., (Legislative.)

THE following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th April 1865, and is hereby promulgated for general information :—

Act No. XVII of 1865.

An Act to amend certain Acts relating to the duties of Customs on goods imported and exported by Sea.

WHEREAS it is expedient to amend the Law relating to Customs duties; It is enacted as follows :—

1. In lieu of the Customs duties authorized to be charged in Act VII of 1859 (to alter the duties of Customs on goods imported or exported by Sea,) Act XXIII of 1859 (to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively,) Act X of 1860, (to amend Act VII of 1859 to alter the duties of Customs on goods im-

ported or exported by Sea,) Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859,) Act XXIII of 1862 (to amend Act XI of 1862,) and Act XXIII of 1864 (to amend the Law relating to the Customs duties on goods imported by Sea,) there shall be levied and collected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI of 1848 (for equalizing the duties on goods imported and exported on Foreign and British bottoms and for abolishing the duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company), or to affect the provisions of The Consolidated Customs' Act.

2. So far as regards the Customs duty on the export of Saltpetre, this Act shall take effect as if it had been passed and had received the assent of the Governor General on the ninth day of March 1865; but, save as aforesaid, this Act shall take effect from the first day of April 1865.

Short Title.

3. This Act shall be cited as "The Indian Customs Duties' Act of 1865."

SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any Port in British India not being a Free Port :—

1. Bullion and Coin	...	...	...	...	Free
2. Precious Stones and Pearls	...	...	...	...	"
3. Grain and Pulse	...	...	...	...	"
4. Horses and other living Animals	...	...	...	...	"
5. Ice	...	...	...	...	"
6. Coal, Coke, Bricks, Chalk, and Stones	...	...	...	...	"
7. Cotton Wool	...	...	...	...	"
8. Wool	...	...	...	...	"
9. Flax	...	...	...	...	"
10. Hemp	...	...	...	...	"
11. Jute	...	...	...	...	"
12. Hides and Skins, raw	...	...	...	...	"
13. Books	...	...	...	...	"
14. Paper	...	...	...	...	"
15. Maps, Prints, Music, and Works of Art	...	...	...	...	"
16. Seeds when imported by any Public Society for gratuitous distribution	...	...	...	...	"
17. Agricultural Implements	...	...	...	...	"
18. Firewood	...	...	...	...	"
19. Machinery used exclusively for purposes of Agriculture, Navigation, Mining or Manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery	...	...	...	...	"

And the Officer in charge of the Custom House, subject to the orders of the Local Government acting under the general instructions of the Government of India, shall decide what articles come within the definition of such machinery or materials forming component parts thereof, and such decision shall be final in law.

20. Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service

21. Guano and manures of all kinds ...	...	...	Free
22. Bottles ...	...	...	"
23. Wines and Liqueurs ...	one Rupee the imperial gallon.		
24. Porter, Ale, Beer, Cider, and other similar fermented Liquors ...	} one anna the imperial gallon.		
25. Spirits ...	{ three Rupees the imperial gallon, and the duty to be rateably increased as the strength exceeds London Proof.		

Provided that 10 per cent. *ad valorem* shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such rules as the Local Governments shall from time to time prescribe for ascertaining that such spirits are unfit for use as a beverage and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.

26. Iron (which shall not be taken to include ironmongery, cutlery or hard-ware) ...	one per cent. <i>ad valorem</i> .
27. Hops ...	one per cent. <i>ad valorem</i> .
28. Tobacco, whether manufactured or not manufactured ...	ten per cent. <i>ad valorem</i> .
29. Piece Goods ...	five per cent. <i>ad valorem</i> .
30. Twist ...	three and a half per cent. <i>ad valorem</i> .
31. All other articles not included in the above enumeration ...	seven and a half per cent. <i>ad valorem</i> .

SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea to any Foreign Port as defined in The Consolidated Customs' Act from any Port in British India.

1. Bullion and Coin ...	...	Free
2. Precious Stones and Pearls ...	...	"
3. Horses and other living Animals...	...	"
4. Rum ...	...	"
5. Spirits ...	...	"
6. Tobacco and all preparations thereof	...	"
7. Cotton Wool ...	...	"
8. Flax ...	...	"
9. Hemp ...	...	"
10. Books ..	...	"
11. Maps, Prints, and Works of Art...	...	"
12. Teak Timber ...	...	"
13. Coal ...	...	"
14. Iron ...	...	"
15. Grain and pulse of all sorts	... three annas the Indian maund	} of forty seers of eighty tolahs to the seer.
16. Saltpetre ...	... one Rupee the Indian maund	
17. Indigo ...	... three Rupees the Indian maund	
18. Lac Dye and Shell Lac	... four per cent. <i>ad valorem</i> .	
19. Hides and Skins, raw	... two per cent. <i>ad valorem</i> .	
20. Sugar ...	... two per cent. <i>ad valorem</i> .	
21. Raw Silk and Silk Chussum	... two per cent. <i>ad valorem</i> .	
22. All country articles not enumerated or named above ...	... three per cent. <i>ad valorem</i> .	

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Dept., (Legislative.)

THE following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th April 1865, and is hereby promulgated for general information :—

ACT No. XVIII of 1865.

An Act to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties.)

WHEREAS it is expedient to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties) ; It is enacted as follows :—

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof :—

Act X of 1862, Section 33, repealed.

2. The Governor General of India in Council may, from time to time, by an order to be published in the Official Gazette, reduce or remit in the whole or any part of the Territories to which the said Act X of 1862 applies, the Stamp Duties prescribed by the said Act and chargeable on all or any of the Deeds, Instruments, and Writings mentioned in the Schedules thereto, or on any particular class of such Deeds, Instruments, and Writings, or on any of the Deeds, Instruments, and Writings belonging to such class ; or on any of the Deeds, instruments, and Writings, as aforesaid, when executed or granted by or to any particular class of persons or by or to any members of such class, and may in like manner cancel or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be published in the Official Gazette.

3. Article eleven of Schedule B to the said Act X of 1862 shall be read as if after the words and figures "Act III of 1859" the following words were inserted, that is to say, "or in Courts of Small Causes established under Section six of Act XXII of 1864 (to make provision for the administration of Military Cantonments.)"

4. This Act shall be read with and taken as part of the said Act No. X of 1862.

This Act to be taken as part of Act X of 1862.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt of India,
Home. Dept., (Legislative.)

THE following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th April 1865, and is hereby promulgated for general information .—

ACT No. XX of 1865.

An Act to amend the Law relating to Pleaders and Mookhtars.

WHEREAS it is expedient to amend the Law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension, and dismissal of Revenue Agents ; It is enacted as follows :—

Preliminary.

1. This Act may be cited as "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865."

Short Title.

2. In this Act, unless there be something repugnant or inconsistent in the subject or context—

Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section." "Section" means a Section of this Act.

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader." "Pleader" includes Vakeels.

"Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge" means the presiding judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction ; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner, or any other Court in the Territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part : "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief Revenue Authority therein.

3. So far as they affect the Territories to which this Act extends, the enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

Laws repealed.

Of Pleaders and Mookhtars.

4. The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrol-

High Court to make rules for qualification, &c., of Pleaders and Mookhtars.

ment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also, from time to time, vary and add to such rules.

5. Except as hereinafter provided, no person shall appear, plead or act as a Pleader, or appear or act as a Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid: Provided that every person who, at the time at which this Act shall come into operation in any part of British

No person to practise as a Pleader or as a Mookhtar unless qualified under this Act.
India, shall be, or shall be qualified to act, as a Pleader in any Court in such part, by virtue of any law, rule or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

6. To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

7. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

8. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate, when renewed as provided in the ninth Section, may be issued and signed by the Officer so appointed or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

9. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

10. The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(a.) In the High Court and any subordinate Court—Rupees fifty.

(b.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees twenty-five.

(c.) In the Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees fifteen:

(d.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees five.

On a certificate authorizing the holder to practise as a Mookhtar—

(e.) In the High Court and any subordinate Court—Rupees twenty-five:

(f.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees sixteen:

(g.) In the Courts of the Commissioners of Circuit, Magistrates and Subordinate Magistrates: in Sudder Ameens' and Moonsiffs' Courts, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees eight:

(h.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees four.

11. Pleaders duly admitted and enrolled under this Act may appear, plead, and act in any Criminal Court, or before any Board of Revenue or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled as aforesaid may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear and act in any Civil Court, and may appear, plead, and act in any Criminal Court within the same limits.

Pleaders may practise in Criminal Courts and Revenue Offices.
Mookhtars may plead in Criminal Courts.

12. Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Provided that neither this Section nor the last preceding Section shall apply to any Court established by Royal Charter.

13. Except as hereinafter provided, any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office to which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable, by order of such Court or the Officer at the head of such Office, to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to im-

Uncertificated persons practising as Pleaders or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees.

sonment in the Civil Jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

14. The High Court may suspend or dismiss any Pleader or Mookhtar enrolled under this Act in such Court who shall be convicted of any criminal offence.

15. The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

16. If any Pleader or Mookhtar practising in any Court subordinate to the High Court shall be charged in such subordinate Court with any such conduct,

as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed; and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence thereof, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report when made by any Officer other than the District Judge shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted, through the Magistrate of the District, to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

17. The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem it.

18. When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which

he was practising at the time he was so suspended or dismissed, or to any Court to which he shall be ordered by the High Court to deliver the same. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months. If during such suspension, or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding six calendar months.

Of Agents practising in the Revenue Offices.

19. No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue, or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

20. The Board of Revenue shall cause the Names of Revenue Agents to be enrolled. name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

21. Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

22. The stamp on such certificate, whether original or renewed, shall be of the following value:—

On a certificate authorising the holder to practise as a Revenue Agent—

In the Board of Revenue or in any Office subordinate to the Board—Rupees fifteen.

In the Office of a Commissioner or in any Office subordinate to a Commissioner—Rupees ten.

In the Office of a Collector or in any Office subordinate to a Collector—Rupees five.

23. The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required, within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

24. To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid and make regulations for conducting the examinations.

25. Every person who shall have been admitted to practise as a Revenue Agent under this Act may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him, and subject to the conditions as aforesaid, to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory under the Board of Revenue in which he is enrolled.

26. The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office who shall be convicted of any criminal offence.

27. The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

28. If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such practise the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

29. If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice

shall be served upon the person charged at least ten days before the day so appointed, and on such day, or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

30. The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

31. Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled, and such Court, after making any inquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

32. The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth or thirty-first Section.

33. When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other Officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable, by order of the Board or such Officer as aforesaid, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months.

34. Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act ex-

Revenue Board to ascertain qualifications of Revenue Agents.

Local Government to appoint Examiners.

Enrolment of Revenue Agent in Office in which he shall usually practise.

Board of Revenue may suspend or dismiss Revenue Agent convicted of criminal offence.

Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

Procedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to Board of Revenue.

Power to Board to call for record.

Report to High Court when dismissed Revenue Agent is also an enrolled Mookhtar.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29, or 31.

Dismissed Revenue Agent to surrender his certificate.

Penalty on unqualified person practising as Agent.

tends without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable, by order of the Board or Officer in whose Office he shall so practise, to a fine not exceeding Rupees two hundred, and, in default of payment, to imprisonment in the Civil Jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

35. Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act, as last aforesaid unless he shall have received the general or the special sanction, as the case may be, in that behalf, of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

36. Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted, and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

Of the Remuneration of Pleaders and Revenue Agents.

37. The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

38. The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

39. Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office shall be at liberty to settle with them, by private agreement, the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

Miscellaneous.

40. Any suitor may appear, plead and act in any suit, appeal or other proceeding on behalf of any co-suitor. And in all Criminal Courts any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting shall be entitled to recover any fee or reward therefor.

41. The rules mentioned in the fourth and twenty-third Sections, and all variations of and additions to such rules, shall be published in three consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to and approved by the Local Government.

42. Every order for imposing a fine which shall be passed under this Act shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

43. Any person who, at the time that this Act shall come into operation in any part of British India, shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court, shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in the eighth, ninth, and tenth Sections. Applications for enrolment under this Section, when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

44. With the exception of Section thirty-nine this Act shall not apply to Advocates, Vakeels, and Attorneys-at-law admitted and enrolled by any High Court under Letters Patent by which such Court is constituted, nor to Mookhtars practising in such Court: Provided that the High Court shall have power to make rules for the qualification, admission, enrolment, suspension, and dismissal of the Mookhtars practising on the Appellate side of such Court, and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties. Provided also that the High Court may from time to time fix and regulate the fees which shall be payable on all proceedings on the Appellate side of such Court by any party in respect of the fees of his adversary's Vakeel. The rules, penalties, and fees so made, prescribed, and fixed and every variation

thereof shall be published in three consecutive numbers of the Official Gazette.

45. Every person now or hereafter enrolled as an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding any thing hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office, subject nevertheless to the rules in force relating to the language in which the Court or Officer is to be addressed by Pleaders or Revenue Agents. Provided that no such Vakeel shall be entitled to practise under this Section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction.

46. Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled

Advocate and Vakeels enrolled in a High Court may practise in any Court other than a High Court in which they are not enrolled.

Attorney of a High Court may plead in any Court not a High Court.

as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

47. This Act shall take effect in the Territories under the Governments of the Lieutenant-Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended, by order of any other Local Government, to the territories subject to such Government. Every such order shall be published in the Official Gazette.

48. From the date on which this Act shall be extended by the Local Government under the provision contained in the last preceding Section to the territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such Territories except as to the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

Commencement and extent of Act.

Repeal of inconsistent enactments in Madras, Bombay, the Punjab, &c.

FIRST SCHEDULE.

Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the Territories to which this Act extends.

Number and Date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XXVII, 1814.	Bengal Code...	For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature.	So much as has not already been repealed.
Regulation VII, 1822.	Bengal Code...	For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other Officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent of produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land.	Section XXV.
Regulation XI, 1825.	Bengal Code...	For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	So much of Clause 9, Section V, as provides that Section XXV of Regulation VII of 1822 shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825.

Number and Date of Acts.	Title.	Extent of Repeal.
Act I of 1846...	For amending the Law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole.
Act XVIII of 1852.	To amend the Law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.	The whole.
Act XX of 1853	To amend the Law relating to Pleaders in the Courts of the East India Company.	The whole.
Act X of 1859..	To amend the Law relating to the recovery of rent in the Presidency of Fort William in Bengal.	So much of Section LXXI as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section CXLIX.

SECOND SCHEDULE.

Form of Pleader or Mookhtar's Certificate.

Stamp

Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B. Pleader [or Mookhtar], whose place [or places] of business is [or are] at hath this day delivered and left with me a declaration in writing signed by him and containing his name and place [or places] of business and the Court [or Courts] of which he is admitted a Pleader [or Mookhtar] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [or the Sudder Court of the North-Western Provinces, or as the case may be] and that he is entitled to practise as a Pleader [or Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [or the Sudder Court of the North-Western Provinces, and any subordinate Court, or the Sudder Ameen's Courts, or the Moonsiffs' Courts, as the case may be] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [or of the North-Western Provinces, or as the case may be] for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.,

Registrar [or as the case may be] of the High Court of Judicature at Fort William in Bengal [or of the Sudder Court of the North-Western Provinces, or as the case may be.]

THIRD SCHEDULE.

Form of Revenue Agent's Certificate.

Stamp

Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B. of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [or of the Lower

Provinces, or as the case may be] and in any office subordinate thereto in such Provinces for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.,

Secretary to the Board of Revenue of the North-Western Provinces [or the Lower Provinces, or as the case may be.]

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,
Home Dept., (Legislative.)

THE following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th April 1865, and is hereby promulgated for general information :—

ACT No. XXI of 1865.

An Act to define and amend the Law relating to Intestate Succession among the Parsees.

WHEREAS it is expedient to define and amend the Law relating to Intestate Succession among the Parsees; It is enacted as follows :—

1. Where a Parsee dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

2. Where a female Parsee dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

3. When a Parsee dies leaving children but no widow, the property of which he shall have died intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of male Intestate who leaves no widow.

4. When a female Parsee dies leaving children but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.

Division of property amongst the children of female Intestate who leaves no widower.

5. If any child of a Parsee Intestate shall have died in his or her life-time, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death.

Division of predeceased child's share of Intestate's property among the widow or widower and issue of such child.

6. Where a Parsee dies leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother if both are living, or one of them if the other is dead, shall take one moiety of the property as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

7. When a Parsee dies leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of the property as to which he or she shall have died intestate. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

Division of property when the Intestate leaves neither widow nor widower nor lineal descendants.

8. The following portions of the India Succession Act, 1865, shall not apply to Parsees (that is to say) the whole of Part III, the whole of Part IV excepting Section twenty-five, the whole of Part V, and Section forty-three.

Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

THE FIRST SCHEDULE.

- (1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.
- (2.) Grandfather and grandmother.
- (3.) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.
- (4.) Great grandfather and great grandmother.
- (5.) Great grandfather's sons and daughters and the lineal descendants of such of them as shall have predeceased the Intestate.

THE SECOND SCHEDULE.

- (1.) Father and mother.
- (2.) Brothers and sisters and the lineal descendants of such of them as shall have predeceased the Intestate.
- (3.) Paternal grandfather and paternal grandmother.
- (4.) Children of the paternal grandfather and the lineal descendants of such of them as shall have predeceased the Intestate.
- (5.) Paternal grandfather's father and mother.
- (6.) Paternal grandfather's father's children and the lineal descendants of such of them as shall have predeceased the Intestate.
- (7.) Brothers and sisters by the mother's side and the lineal descendants of such of them as shall have predeceased the Intestate.
- (8.) Maternal grandfather and maternal grandmother.
- (9.) Children of the maternal grandfather and the lineal descendants of such of them as shall have predeceased the Intestate.
- (10.) Son's widow, if she have not re-married at or before the death of the Intestate.
- (11.) Brother's widow, if she have not re-married at or before the death of the Intestate.
- (12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.
- (13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.
- (14.) Widowers of the Intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.
- (15.) Maternal grandfather's father and mother.
- (16.) Children of the maternal grandfather's father and the lineal descendants of such of them as shall have predeceased the Intestate.
- (17.) Paternal grandmother's father and mother.
- (18.) Children of the paternal grandmother's father and the lineal descendants of such of them as shall have predeceased the Intestate.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,
Home Dept., (Legislative.)*

Government of Bengal.

LEGISLATIVE DEPARTMENT.

THE following Act of the Lieutenant-Governor of Bengal in Council received the assent of His Honor on the 11th April 1865, and having been assented to by His Excellency the Governor General on the 15th idem, is hereby promulgated for general information:—

ACT No. VI OF 1865.

An Act to provide for the regulation and enforcement of Contracts for Labor at places to which, by virtue of such Contracts, the Laborer is to be conveyed at the expense of the Employer.

WHEREAS it is expedient to provide for the due protection of native Laborers who have been or shall hereafter be conveyed at the expense of their Employers under the provisions of Act III of 1863, passed by the Lieutenant-Governor of Bengal in Council, (*An Act to regulate the transport of Native Laborers to the Districts of Assam, Cachar, and Sylhet*), or of any other Law, to Districts other than the Districts to which they belong; and for the due enforcement of the Contracts entered into by such Laborers with the persons whom they shall have engaged to serve for hire; It is enacted as follows:—

I. Throughout this Act the word "Laborer" means a Laborer who has heretofore entered or shall hereafter, under the provisions of Act III of 1863 or of any other Law, enter into a contract by which he has been or shall be conveyed to the place of labor at the expense of the Employer contracting.

The term "Protector" includes any Officer appointed by the Lieutenant-Governor of Bengal to perform all or any of the duties of a Protector under this Act.

Words used in the masculine gender include the feminine, and the singular number includes the plural.

II. If, upon any examination made in accordance with Section XI of the said Act III of 1863 or any other Law, it shall appear that any Laborer, belonging to any District in the Provinces under the control of the Lieutenant-Governor of Bengal, brought before the Magistrate by a recruiter, or otherwise, does not belong to the District in which the examination has been conducted, and has not resided there a reasonable time for purposes of his own, or come there of his own accord to seek for employment, but has been brought thither from another District in the said Provinces with the view of prevailing upon him to enter into an engagement there, it shall be lawful for the Magistrate to fine the recruiter such sum as in the judgment of the Magistrate may be sufficient to enable the Laborer to return to the District to which he belongs, and to apply such fine to the re-conveyance of such Laborer to such District.

III. The provisions of the preceding Section shall not apply to any Laborer who shall come from any Province or District not under the control of the Lieutenant-Governor of Bengal, for the purpose of entering into an engagement in a District under such control. Any Laborer recruited in any such Province or District as last aforesaid, shall be taken by the recruiter, for the purpose of registry under Section II of the said Act, before a Magistrate of that District, subject to the control of the Lieutenant-Governor of Bengal, into which such Laborer shall first come after his engagement.

IV. Each Laborer shall, under all circumstances, except as hereinafter specially provided, and notwithstanding any thing to the contrary contained in his contract, be entitled to wages at the minimum rate following, namely, five Rupees a month if a male over twelve years of age; four Rupees a month if a female over that age, and three Rupees a month if under that age, or at the rate specified in the contract if more than such minimum rate; and shall not be bound to serve under his contract for a longer period than three years from either the time at which such contract shall be entered into, or, in the case of contracts which have been entered into before the passing of this Act, from the date on which the Act may come into operation; nor to work on any Sunday, or for more than six hours consecutively on each of the other six days in any week; nor for more than nine hours in each day. It shall be the duty of the Superintendent before whom any future contract is executed by the Laborer, before he attests the same, to explain fully to the Laborer the minimum rate of wages to which he is entitled, and what is the rate fixed in his contract, and under what circumstances alone the Laborer's title to wages can be forfeited or suspended as hereinafter mentioned, and what is the period of time for which he is bound to serve.

V. If, during the currency of any contract as aforesaid, the estate on which the Laborer shall have engaged to work shall be sold or transferred, by the party contracting with such Laborer, to some other person, or if some other person shall become proprietor thereof by reason of the death of such party, the contract shall, by such event, become null and void as regards the party originally contracting, and shall be valid to all intents in law as between the new proprietor and the Laborer, and shall enure in the same manner as if such new proprietor had been named in the contract as the party contracting; and so in the case of any subsequent transmission of interest by sale, transfer, or death.

VI. Every such contract as aforesaid may, by mutual agreement of the parties thereto, be transferred by the Protector of Laborers to any other Laborer or Employer; but in such case the Protector shall endorse such transfer on the contract, and shall also register it in his own Office.

VII. On every estate on which any Laborers shall be employed, there shall be provided sufficient hospital accommodation for one in every ten of

Hospital, Medicines, and Medical Officer.

Contract may be transferred by mutual consent.

the Laborers so employed thereon, as well as medicines of such quality and descriptions, and according to such scale, as shall from time to time be fixed by the Lieutenant-Governor of Bengal: and if on any estate there shall be employed three hundred or more Laborers, it shall be the duty of the proprietor of such estate to place in medical charge thereof at least one Medical Officer holding a medical diploma from some Indian or European Collegiate Institution authorized to grant diplomas, or at least one Officer for the time being licensed by the local Government to act in such medical charge.

VIII. If, on any estate in which Laborers are employed, it shall at any time be found that there is not such hospital accommodation as aforesaid, or that there is not provided for the use of such Laborers medicine of such quality and descriptions and according to such scale as aforesaid, the chief person in charge of such estate shall be liable to a fine not exceeding five hundred Rupees. And if there shall be three hundred or more Laborers employed on such estate, and it shall be found that there is no such Medical Officer as aforesaid, such chief person as aforesaid shall be liable to a fine not exceeding five hundred Rupees. The continued omission to observe the provisions of the last preceding Section shall be fineable under this Section as a distinct offence, and so on until the omission is duly supplied.

IX. It shall be lawful for the Lieutenant-Governor of Bengal to appoint, in any District in which the said Act III of 1863, or this Act, has been or may be in force, so many Protectors of Laborers as he may think proper, and to define, by Notification in the Calcutta Gazette, the local limits within which each such Protector shall exercise the powers and authorities conferred, and perform the duties imposed on him, by this Act. Such Protector may be vested with all or any of the powers of a Magistrate.

X. It shall be lawful for the Lieutenant-Governor of Bengal to appoint, under any such Protector as aforesaid, so many Inspectors of Laborers as may be considered necessary to assist the Protector in the performance of his duties, and to assign to such Protector and Inspectors such establishment as may be thought fit; and such Inspectors shall perform all the duties, and exercise all the powers, other than Magisterial powers, of such Protector, which they shall be authorized in writing by such Protector to perform or exercise.

XI. Every Employer of Laborers, or the chief person in charge under him of the estate on which such Laborers are employed, shall, on or before the fourteenth day of January and the fourteenth day of July in each and every year, make out in writing, and deliver to the Protector of Laborers within the local limits of whose authority such estate may be situate, a Return of the number of such Laborers as aforesaid who shall have been employed on the estate on the last day of the preceding month, and such Return shall be in such form as may from time to time be prescribed by the Lieutenant-Governor of Bengal by an order to be published in the Calcutta Gazette.

XII. If any such Employer or other person as aforesaid shall refuse, or wilfully omit, duly to send in any such Return as aforesaid, or shall knowingly send in an incorrect Return, such Employer or other person shall, on conviction thereof before the Magistrate of the District, be liable to a fine not exceeding five hundred Rupees; and a Certificate under the hand of the Protector to whom such Return ought to have been sent, stating that such Return has not been sent or is incorrect as aforesaid, shall be received as sufficient *prima facie* evidence of the truth of the facts stated in such Certificate.

XIII. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, by order published as aforesaid, to fix a yearly sum not exceeding one Rupee per Laborer, as a rate for the purpose of providing for the salaries and emoluments of the Protectors and Inspectors, and the sum or rate so fixed shall be payable half-yearly in respect of each estate for each Laborer employed therein according to the last Return.

XIV. Every such Employer or chief person as aforesaid shall, within two months from the said fourteenth day of January and fourteenth day of July aforesaid respectively, send in to the Collector of the District such sum of money as shall appear, according to the last Return as aforesaid, to be payable under the last preceding Section on account of the Laborers mentioned therein.

XV. If any such Employer or chief person as aforesaid shall fail to comply with the provisions of the last preceding Section, it shall be the duty of the Collector to notify such default to him; and if, within one month from the receipt of such notification, or such other period as may, under special circumstances, appear to the Collector reasonable, such Employer or chief person as aforesaid shall not so comply, the Collector shall levy the sum payable by distress and sale of any moveable property (other than that of a Laborer) which may be found on the estate, or (if there shall be no such moveable or insufficient moveable property found) by sale of a sufficient portion of the estate itself. Such sale shall be conducted according to the provisions of the law for the time being in force for the realization of arrears of Government Revenue.

XVI. Every Protector of Laborers shall, once within such periods as may be fixed for such purpose by the Lieutenant-Governor of Bengal, visit each estate, within the limits of his authority, on which there shall be employed any Laborers, and inspect every Hospital, tent, camp, or building in any way used by any such Laborer, and investigate the condition of all the Laborers employed on such estate; and for such purpose he may require that all the Laborers employed on such estate shall be mustered before him with their several contracts, and may make such enquiries as may to him seem proper. Every such Protector shall keep books in which, from time to time, shall be entered the number of Laborers then under contract to each Employer, the number who shall then be sick or

Penalty for refusing or omitting to send in Return, or sending in incorrect Return.

Yearly rate to be fixed for each estate.

Employer, &c., to send in the rate due according to Return.

Employer, &c., failing to send in the rate in due time, how to be dealt with.

Books to be kept, and periodical visits and reports made, by Protector.

Return of Laborers to be sent in half-yearly by Employer, &c., to Protector.

missing, or who shall have complained of ill-treatment, the particulars of such complaints, and such other particulars regarding the Laborers as the Lieutenant-Governor of Bengal shall from time to time direct. Each Protector shall periodically make a written report to the Lieutenant-Governor of Bengal, through the Commissioner of the Division, of the aforesaid particulars; and any such Report, as regards any particular estate, shall be open to the inspection of the proprietor or chief person in charge of such estate, or any person by him appointed in writing in that behalf, and the person so inspecting shall be entitled to take a copy of the Report so far as it relates to such estate.

XVII. It shall be lawful for the Magistrate of the District, the Protector of Laborers, or his duly authorized Inspectors, or any other Officer duly authorized by the Lieutenant-Governor of Bengal, at any time, to enter and inspect any estate, or any Hospital, camp, tent, or building wholly or partially used by or for Laborers, and to require that any Laborer shall be brought before him, and to make any enquiries which he may think proper touching the condition or treatment of such Laborer, or of any other Laborer employed on such estate.

XVIII. If any Employer, or other person acting for or under such Employer, shall in any way obstruct or impede any entry, inspection, or enquiry made under either of the two preceding Sections, such Employer or other person as aforesaid shall be liable to a fine not exceeding five hundred Rupees for each such offence.

XIX. It shall be lawful for the Protector of Laborers, within the local limits of whose authority any Laborer may be employed, to suspend, for such period as he shall consider advisable, the contract, or any particular term thereof, if such Laborer shall be, in the judgment of such Protector, temporarily unfitted for such performance by reason of sickness, pregnancy, or other sufficient cause. Provided that every such suspension shall be endorsed by the Protector on the contract. Provided, also, that every such Laborer shall, during such incapacity, receive, in lieu of full wages, such a portion thereof as shall be considered sufficient by the Protector, and that the time during which the suspension continues shall be reckoned as part of the whole term for which the Laborer is bound to serve.

XX. If on any estate it shall be found that any Laborer, whose contract has been suspended as aforesaid, has been compelled to perform any species of labor for which he was at the time unfit, or if any Laborer shall have been compelled to perform work which, under the provisions of Section IV of this Act, he was not bound to perform, the chief person in charge of such estate shall be liable to a fine not exceeding two hundred and fifty Rupees.

XXI. If, in the opinion of the Protector of Laborers, any Laborer shall be permanently unfitted for the performance of his contract, or any material part

thereof, the Protector shall certify to that effect in writing, and deliver such Certificate to the Employer of such Laborer or some one on his behalf, and from the date of such Certificate the contract of such Laborer, except as regards any liability previously incurred thereunder, shall wholly cease and determine. The Protector shall make a Return of all such cases of determination of contract in his Report under Section XVI of this Act. Every Laborer, whose contract shall have been determined as aforesaid, shall be entitled to be re-conveyed, at the expense of his Employer, to the District in which he was recruited, or, if he prefer it, to receive from his Employer three months' wages at the minimum rate fixed in Section IV of this Act, and such sum shall be recoverable before a Magistrate in the manner hereinafter provided.

XXII. Every Laborer, who shall have completed the term of his contract, shall be forthwith permitted by his Employer, or by the chief person in charge of the estate on which he has been employed under such contract, to appear before the Protector, to have the completion of his contract registered. If such Employer or chief person shall detain such Laborer after the completion of his contract, or shall fail to give notice of such completion to the Protector within one month after the date of such completion, such Employer or chief person shall be liable to a fine not exceeding two hundred and fifty Rupees.

XXIII. If any Laborer shall be able and desirous to pay to his Employer the sum of one hundred and twenty Rupees, or, if the term of his engagement has less than two years to run, a sum equivalent to the minimum rate of wages of such Laborer for the unexpired term of his engagement, such Laborer may demand to be taken or allowed to go before the Protector within the local limits of whose authority his Employer's estate is situate, and, on his depositing such sum in the hands of such Protector, such Protector shall call for the contract of such Laborer and endorse thereon a Certificate of Release by purchase, and shall hold the sum in deposit on account of the Employer of such Laborer. If any Employer, or other person authorized to act for the Employer, shall neglect to comply with such demand, such Employer or other person as aforesaid shall be liable to a fine not exceeding two hundred and fifty Rupees.

XXIV. Every Laborer, whose contract shall have been completed or determined or released by purchase as aforesaid, shall be entitled to receive forthwith from the Protector a Certificate of Release in such Form as may from time to time be prescribed by the Lieutenant-Governor of Bengal by an order to be published in the Calcutta Gazette.

XXV. Every Laborer, the completion of whose contract or whose release therefrom shall have been registered, shall be entitled to enter into a fresh contract before the District Magistrate, in the manner prescribed in Section XIX of Act III of 1863 for contracts entered into before the Superintendent of Labor Transport, and in case of

Magistrate, Protector, &c., may inspect any estate at any time.

Laborer who has completed his contract, to be permitted to have such completion registered.

Penalty on person obstructing inspection, &c.

Release from contract how to be purchased.

Protector may suspend contract of any Laborer temporarily unfitted for labor.

A Certificate to be given to Laborer whose contract has determined or been completed, or who has purchased release therefrom.

Penalty for unlawfully compelling any Laborer to work.

Laborer who has completed his contract or been released therefrom, may enter into a fresh contract.

Protector to give Certificate to Laborer permanently unfitted for labor.

his entering into such fresh contract, all the provisions of this Act and of Act III of 1863 shall apply thereto.

XXVI. If any Laborer shall state to his Employer, or to any person acting for such Employer, that he desires to make a complaint to the Protector of Laborers of personal ill-usage or breach of any provision of this Act on the part of such Employer or other person, the person to whom such statement shall have been made shall, within forty-eight hours, send notice thereof in writing to the Protector, and in default of so doing such person shall be liable to a fine not exceeding five hundred Rupees.

XXVII. Whenever any Protector of Laborers shall receive such notice in writing as aforesaid, or whenever any complaint of personal ill-usage or breach of any provision of this Act as aforesaid shall be made to him by any Laborer against his Employer, or any person acting for such Employer, or whenever the Protector shall have other reasonable grounds for believing that any such personal ill-usage or breach of any provision of this Act as aforesaid has been suffered by a Laborer, such Protector shall forthwith, if the estate on which such offence has been committed is not situate within the limits of his own authority, give notice thereof in writing to the Protector within the limits of whose authority such estate is situated: and if such estate be situated within the limits of his own authority, then such Protector shall forthwith make full enquiry into the matter complained of.

XXVIII. For the purposes of such enquiry, it shall be lawful for any Protector, if he think fit, to summon such Laborer as aforesaid, as well as any witnesses whose attendance may be necessary; and if any Employer or other person authorised to act for the Employer shall in any way obstruct the service of, or obedience to, such summons, such Employer or other person as aforesaid shall be liable to a fine not exceeding two hundred and fifty Rupees.

XXIX. If, upon such enquiry made on the complaint of a Laborer, the Protector shall be of opinion that the complaint is untrue or frivolous, he shall enter in his book the particulars of such complaint, and a short statement of the grounds of his opinion respecting it, and shall dismiss the complaint, and in such case shall endorse on the contract of such complainant the number of days spent in such inquiry, and such number of days shall be added to the period for which such complainant had contracted to serve.

XXX. If, upon such enquiry as aforesaid, the Protector shall be of opinion that the complaint is well-founded, but not within his own cognizance under the powers conferred upon him under Section IX of this Act, he shall without delay send the complainant and his witnesses to the nearest Magistrate, and such Magistrate shall thereupon deal with the case in due course of law.

XXXI. If, upon the complaint of any Laborer, it shall be proved to the satisfaction of the Magistrate that the wages of such Laborer have not been paid

Compensation to be given if wages for more than two months are due.

to him for a period of more than two months after they have become due, it shall be lawful for such Magistrate to award to such Laborer the amount which shall appear to be then due to him; and also, by way of compensation, such further sum, not exceeding that amount, as shall appear to the Magistrate to be just; and, in case of default, the Collector shall, upon the requisition of the Magistrate, levy the entire sum in the manner prescribed in Section XV of this Act.

XXXII. If the Employer of any Laborer, or any person placed in authority over such Laborer by such Employer, shall be convicted of any offence against such Laborer triable, under the Criminal Procedure Code, by the Court of Session; or if any such

Employer, or other person as aforesaid, shall be twice convicted of any offence against such Laborer triable, under the said Code, by a Magistrate; or if it shall be proved before a Magistrate that the wages of such Laborer have not been paid for a period of more than six months after they shall have become due; or if the Magistrate of the District shall, on the report of the Protector and after due enquiry, be satisfied that any Laborer has been compelled to perform any labor while he was unfit for it, or has been subjected to gross ill-usage by such Employer or any other person placed in authority over the Laborer by such Employer, it shall be lawful for the Protector, on the application of the Laborer, in each of such cases, to cancel the contract of such Laborer, and to award to him such compensation for such cancellation, not exceeding thirty Rupees, as he shall think fit, and every such cancellation shall be certified on the back of such contract, and such Laborer shall then be at liberty either to enter into a fresh contract with any other Employer, or to return to the District from which he was recruited.

XXXIII. Any Laborer who shall absent himself from his labor without sufficient cause may be taken before the nearest Magistrate, and shall, on conviction, be sentenced to lose all claim to wages or allowances during the period of such absence, and also to forfeit to his Employer a sum not exceeding four annas for each day during which such absence shall have continued; and in case such absence shall have exceeded seven days, or in case such Laborer shall have been already convicted of the same offence within a period of three months, such Laborer shall be furthermore sentenced to rigorous imprisonment for fourteen days.

XXXIV. Any Laborer who, without absents himself from his labor, shall be wilfully negligent or indolent in the performance thereof, may be convicted as aforesaid, and shall, on such conviction, be sentenced to lose all claim to wages or allowances for the period of such wilful negligence or indolence; and upon a second conviction within six months for a similar offence,

Penalty on Laborer for absents himself without sufficient cause.

Penalty for wilful negligence or indolence.

Protector how to proceed if the complaint be untrue or frivolous.

Protector how to proceed if the complaint be well founded.

shall be sentenced to rigorous imprisonment for fourteen days.

XXXV. If any Laborer shall desert or attempt to desert from his Employer's service, such Employer or any other person acting in his behalf may, without first procuring a warrant and without the assistance of any Police Officer, (who, nevertheless, shall be bound to give such assistance if called upon to do so), apprehend such Laborer wherever he may be found. Provided, nevertheless, that if the said Laborer

Laborer deserting may be apprehended without a warrant.

Proviso.

be found in the service of another Employer, or beyond the limits of the District in which his Employer's estate is situated or in which he deserted, he shall not be arrested without a warrant. Provided, also,

Proviso.

that if the Employer or other person as aforesaid shall use unnecessary violence in effecting such apprehension, or if he shall not, within forty-eight hours from the time of such apprehension, make over the said Laborer to the hands of some Police Officer, with a statement in writing of the apprehender's name and residence, and of the charge on which the Laborer has been apprehended, or shall not otherwise within such period cause him to be conveyed to the nearest Magistrate, the person so apprehending shall be liable to a fine not exceeding five hundred Rupees.

XXXVI. If any Laborer apprehended, whether with or without a warrant, shall be made over to a Police Officer, it shall be the duty of such Officer to convey him, without delay, to the nearest Magistrate; and if the estate or place from which such Laborer is charged with having deserted be within the jurisdiction of such Magistrate, he shall adjudicate the charge himself; but if not, he shall forward the said Laborer under custody to the Magistrate within whose jurisdiction such estate or place is situated, who shall adjudicate upon it.

Laborer, when made over to the Police, to be taken before the nearest Magistrate

XXXVII. If it be proved to the satisfaction of the Magistrate that such Laborer has deserted from his Employer's service, he shall be convicted and sentenced to rigorous imprisonment for a period not exceeding three months. If it be proved that the Laborer has been apprehended wrongfully, the person apprehending him, or on whose charge or by whose order he shall have been apprehended, shall be sentenced to pay a fine not exceeding five hundred Rupees, any portion of which may be awarded to such Laborer.

Penalties for desertion and wrongful apprehension.

XXXVIII. All the provisions of this Act, regarding the desertion or unlawful absence of Laborers, shall be held applicable to Laborers who shall desert while in transit to the District in which they have contracted to labor for hire; and such Laborers may be tried either in the District in which they may be apprehended, or in the District in which, under their contracts, they are bound to labor for hire, notwithstanding that the offence may have been committed in a third District.

Provisions regarding desertion and unlawful absence to apply to desertion in transit.

XXXIX. Any person who shall knowingly and wilfully entice away, harbour, or employ any Laborer who shall have entered into such contract as aforesaid with another person, before such Laborer shall have been lawfully released from such contract, shall be liable to a penalty not exceeding five hundred Rupees.

Penalty for enticing away, harbouring, or employing Laborers under contract to another person.

XL. It shall be lawful for the Employer, or any person authorised to act for the Employer, of any Laborer imprisoned for any offence under this Act, to

Portion of sentence may be cancelled if Employer apply for return of Laborer.

apply to the Magistrate, at any time previous to the expiry of such sentence, that such Laborer be made over to him for the purpose of completing his contract, and the Magistrate shall, in such case, make over such Laborer, and shall cancel the remainder of the sentence passed on him, and shall endorse such cancellation, under his own signature, on the contract of such Laborer.

XLI. On the expiry of any sentence of imprisonment for any offence under this Act, it shall be the duty of the Magistrate to make over such Laborer to any person appointed on

Conviction not to operate as a release, but, on expiry of sentence, Laborer to be made over to Employer.

the part of his Employer to receive charge of him; and no conviction under this Act, or imprisonment under such conviction, shall be held to operate as a release to any Laborer from the terms of his contract. Provided, nevertheless, that the period of imprisonment shall in no case be prolonged by reason of no person being present on the part of the Employer to take charge of the Laborer at the expiry of his sentence, but the prisoner shall, in that case, be sent to the Employer's estate, and the expense of such conveyance shall be levied from the Employer in the manner provided for the realisation of fines under this Act.

XLII. Every sentence of fine imposed for unlawful absence from labor, and every sentence of imprisonment for any offence under this Act, shall be endorsed on the contract, at the time of its being passed, by the Officer passing it, and no such period of imprisonment or unlawful absence so endorsed shall be reckoned as part of the term for which the Laborer is bound to serve; but such term shall extend to such further period as shall be equivalent to the aggregate amount of the imprisonments and unlawful absences so endorsed.

Sentences to be endorsed on contract. Periods of imprisonment and unlawful absence to be added to term of service.

XLIII. In every case in which a fine is imposed under this Act, or under the said Act III of 1863, it shall be competent

Imprisonment in default of payment of fine.

to the Court imposing such fine to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, and such term of imprisonment shall be regulated in accordance with the provisions of Sections 67, 68, and 69 of the Indian Penal Code.

XLIV. If a Protector of Laborers shall at any time have reason to believe that any estate or portion of an estate, situated within the limits of his jurisdiction, is, by reason of

If the Protector believe any estate or part thereof to be unfit for habitation, a Committee shall be summoned.

of climate or situation, unfit for human habitation,

such Protector shall give notice in writing of his opinion to the Magistrate of the District, and such Magistrate shall forthwith summon a Committee to enquire into the fitness of such estate or portion thereof for human habitation. Such Committee shall consist of the Magistrate, the Protector of Laborers, the Medical Officer of the District, and at least one Employer of Laborers resident in the District. Such Committee shall proceed, with as little delay as possible, to inquire into the healthiness of the estate or portion thereof to which the Protector's report has reference, and shall hear such evidence on the subject as the owner of such estate or portion of the estate as aforesaid or the Employer or Protector, may desire to place before it; and, if such Committee shall be of opinion that such estate or portion thereof is unfit for human habitation, it shall record a finding to that effect; and the contract of every Laborer who shall have contracted to serve on such estate shall thereupon be null and void as regards such estate or such portion thereof. Provided, however, that every such contract shall continue valid with regard to any other portion of such estate, or to any other estate of the same Employer.

XLV. This Act shall be read with and taken as part of the said Act Construction of Act. III of 1863.

G. S. FAGAN,

*Asst. Secy. to the Govt. of Bengal,
Legislative Department.*

THE following Act of the Lieutenant-Governor of Bengal in Council received the assent of His Honor on the 11th April 1865, and having been assented to by His Excellency the Governor General on the 15th idem, is hereby promulgated for general information :—

ACT No. VII OF 1865.

An Act to make provision for the better regulation and supervision of Public Slaughter-Houses in the Suburbs of Calcutta, and for the adoption of proper Conservancy arrangements connected therewith.

WHEREAS it is necessary to make provision for the better regulation and supervision of Public Slaughter-Houses and Markets for the sale of meat and fish in the Suburbs of Calcutta and for the adoption of proper Conservancy arrangements connected therewith; It is enacted as follows :—

I. No place within the jurisdiction of the Municipal Commissioners of the Suburbs of the Town of Calcutta appointed under the provisions of Act III of 1864, passed by the Lieutenant-Governor of Bengal in Council, (the *District Municipal Improvement Act*), shall be used as a Slaughter-House, unless a license in writing for the use thereof as a Slaughter-House has been obtained from the Municipal Commissioners, who are hereby empowered, at their discretion, from time to time, to grant such licenses; and whoever,

without such license, uses as a Slaughter-House any place within the limits aforesaid, shall be liable to a penalty not exceeding two hundred Rupees, and to a penalty, not exceeding fifty Rupees, for every day after the conviction for such offence, during which the said offence is continued. Provided that nothing in this Act shall apply to any Hindoo or Mahomedan place of worship.

II. The Municipal Commissioners may, from time to time, if they shall think fit, with the sanction of the Government of Bengal, provide places for the purpose of being used as Slaughter-Houses, and they may make Bye-Laws for, and with respect to, the management, regulation, and charges for the use of such places.

III. Every owner or occupier of any licensed Slaughter-House, within the limits aforesaid, shall cause such drains to be made therein as shall be considered sufficient by the Municipal Commissioners, and (if required so to do by the Municipal Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided, sufficient for keeping such Slaughter-Houses, or any place used as a Meat Market, in a clean and wholesome state; and if such owner or occupier, after notice in writing given to him by the Municipal Commissioners that such Market or Slaughter-House is defective in any of the said particulars and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a penalty, not exceeding fifty Rupees, for every day during which such default is continued.

IV. The Municipal Commissioners may, under the manner prescribed and under the conditions laid down in Section LXXXIV of the said Act III of 1864, make Bye-laws for the inspection of all Markets for the sale of meat or fish within the limits aforesaid and for the management and conduct of the business therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours.

V. The Municipal Commissioners, or any person appointed by them for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any market, building, shop, stall, or place used for the sale of butcher's meat, poultry, or fish, or as a Slaughter-House, and may examine any animal, carcase, or meat which may be therein; and in case any animal, carcase, meat, or fish appear to be intended for the food of man and to be unfit for such food, may seize the same; and if it appear to a Magistrate, upon the evidence of a competent person, that such animal, carcase, meat, or fish, is unfit for the food of man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food; and the owner thereof, or the person in whose possession the same is found, shall be liable to a penalty not exceeding one hundred Rupees.

VI. The Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act, relating to Slaughter-Houses, or of the non-observance of any of the Bye-laws relating thereto, may, in addition to the penalty imposed on such person under the authority of this Act, suspend such license for any period not exceeding two months, and upon conviction for a second or other subsequent like offence, such license may, in addition to the penalty imposed under the authority of this Act, be revoked.

VII. Whoever, during the period for which any such license is suspended, or after the same is revoked as aforesaid, slaughters cattle, or allows cattle to be slaughtered in the Slaughter-House to which such license relates, shall be liable to a penalty, not exceeding one hundred Rupees, for every day, after the conviction for such offence, during which the said offence is continued.

VIII. The provisions of the said Act III of 1864, in regard to prosecutions for offences and the enforcement of fines and forfeitures, shall be applicable to all prosecutions for offences, and the recovery of fines and forfeitures under this Act; and the Magisterial powers conferred upon the Municipal Commissioners by Section VI of the above Act shall be exercised by them for all the purposes of this Act.

IX. It shall be lawful for the Lieutenant-Governor of Bengal to extend, by notification in the Calcutta Gazette, the provisions of this Act, or of any specific portion thereof, to any Towns or places in which the said Act III of 1864 may be in force.

G. S. FAGAN,

*Asst. Secy. to the Govt. of Bengal,
Legislative Dept.*

ORDERS by the LIEUTENANT-GOVERNOR of BENGAL.

No. 2766.

APPOINTMENTS.—*The 20th April 1865.*—The Commissioner of Police, Calcutta, to be the Officer for licensing Buildings, &c., under Sections V. and VII. of Act III. (B. C.) of 1865 within that Town.

The 21st April 1865.—The Judge of the Small Cause Court of Moorsshedabad to be also Judge of the Court of Small Causes in the Cantonment of Berhampore.

The Judge of the Small Cause Court of Hooghly to be also Judge of the Court of Small Causes in the Cantonment of Chinsurah.

Baboo Anund Chunder Banerjee, Judge of the Small Cause Court of Rajshahye, to officiate as Judge of the Small Cause Court of Nattore in addition to his own duties during the absence, on leave, of Mr. W. W. Linton, or until further orders.

The 24th April 1865.—Mr. J. O'Kineally, and Dr. B. W. Switzer to be Members of the Municipal Committee at Jessore.

Dr. C. M. Russell to be Medical Officer of Behar.

Mr. J. Sanders, Professor of English Literature, Presidency College, to officiate as Principal of the Sanscrit College in addition to his own duties during the absence, on leave, of Mr. E. B. Cowell, or until further orders.

The 25th April 1865.—Major E. P. Lloyd to officiate as Cantonment Magistrate of Dinapore and Judge of the Court of Small Causes in that Cantonment during the absence, on leave, of Major J. Emerson, or until further orders.

Captain J. F. Sherer to officiate as Deputy Commissioner of Kamroop.

Mr. J. W. Edgar to officiate as Assistant Commissioner of Cachar during Captain Sherer's absence on deputation, or until further orders.

The 26th April 1865.—The following gentlemen to be Members of the Charitable Dispensary Committee at Beerbhoom, viz.:—

Mr. H. S. Beadon.

Captain T. Buttanshaw.

Mr. W. W. Hunter.

Baboo Poreshnath Mookerjee.

„ Ooma Churn Banerjee.

Mr. A. C. Bolst, Assistant Superintendent of Police, is transferred from Gowhaty to Dutma to do duty with the Bootan Force.

The 27th April 1865.—Mr. W. E. Ward to officiate as Joint Magistrate and Deputy Collector of Burdwan during the absence, on deputation, of Mr. H. C. Sutherland, or until further orders.

The 28th April 1865.—Lieutenant H. A. Pakenham to officiate temporarily as Cantonment Magistrate of Dinapore and Judge of the Small Cause Court in that Cantonment until the arrival of Major Lloyd, or until further orders.

LEAVE OF ABSENCE.—*The 21st April 1865.*—Baboo Krishnapersaud Ghose, Deputy Magistrate and Deputy Collector of the Hidgelee Khas Mehals, for one month, from the 10th instant, under paragraph 11 of the Uncovenanted Service Absentee Rules. He will make over charge of his Office to the Deputy Collector of Contai.

Mr. W. W. Linton, Judge of the Small Cause Court of Nattore, for one month, under paragraph 16 of the Uncovenanted Service Absentee Rules.

Moonshee Dubeerooddeen Ahmed, Deputy Magistrate and Deputy Collector of Burdwan, for one month, from the 5th proximo, under paragraph 16 of the Uncovenanted Service Absentee Rules.

The 22nd April 1865.—Baboo Keesub Ram Surma Barroah, Moonsiff of Seeksangor, for one month, from the 20th ultimo, under paragraph 11 of the Uncovenanted Service Absentee Rules.

The 24th April 1865.—Major J. Emerson, Cantonment Magistrate of Dinapore, for twelve days, under Chapter I., Section 3 of the Covenanted Service Absentee Rules, preparatory to proceeding to Europe on Medical Certificate.

Baboo Hurrichurn Ghose, Deputy Magistrate and Deputy Collector of Purneah, for one month, under paragraph 16 of the Uncovenanted Service Absentee Rules, from the 1st June next, or from any other date on which he may avail himself of the leave.

The 25th April 1865.—Baboo Poran Chunder Newgy, Deputy Magistrate and Deputy Collector of Bhaugulpore, for fifteen days, from the 8th proximo, under paragraph 16 of the Uncovenanted Service Absentee Rules.

The 26th April 1865.—Mr. C. B. Pearson, Deputy Magistrate and Deputy Collector of Tirhoot, for three months, under the Financial Notification dated 31st July 1863.

Baboo Koeldeepnarain Sing, Deputy Magistrate and Deputy Collector of Behar, for one month, under paragraph 16 of the Uncovenanted Service Absentee Rules, from the date on which he may avail himself of the leave.

Captain R. Stewart, Deputy Commissioner of Cachar, for ten days, under Section 6 of the Covenanted Service Absentee Rules, from the date on which he may avail himself of the leave, making over charge of his Office to the Assistant Commissioner.

NOTIFICATIONS.—*The 17th April 1865.*—The services of Lieutenant G. D'A. Jackson, Assistant Commissioner of Hazareebaugh, are placed at the disposal of the Public Works Department of this Government at his own request.

The 20th April 1865.—The leave granted to Mr. E. B. Godfrey, Deputy Magistrate and Deputy Collector of Sylhet, on the 7th ultimo, will have effect from the 21st of June next.

The 24th April 1865.—The leave granted to Mr. M. Little, Deputy Magistrate and Deputy Collector of Monghyr, under orders of the 28th September last, will have effect from the 28th ultimo instead of from the 10th idem, as notified in the *Calcutta Gazette* of the 22nd February last.

Mr. W. E. Kinsey, Assistant Magistrate and Collector of Patna, having joined his appointment on the 17th instant, the unexpired portion of the leave granted to him on the 8th instant is cancelled.

Baboo Hurkanth Surma, Deputy Collector of Kamroop, having availed himself of the leave granted to him under orders of the 25th February last on the 15th idem, and returned to his duties on the 9th ultimo, the unexpired portion of that leave is cancelled.

NOTIFICATIONS.—*The 21st April 1865.*—It is hereby notified that, under the provisions of Section VI. of Act XXII., 1864, the Lieutenant-Governor has been pleased to sanction the establishment, from the 1st proximo, of a Court of Small Causes in the Military Cantonment of Berhampore, with pecuniary jurisdiction extending to Rupees 500. The territorial jurisdiction of the Court shall be coterminous with the limits of the Cantonment.

It is hereby notified that, under the provisions of Section VI. of Act XXII., 1864, the Lieutenant-Governor has been pleased to sanction the establishment, from the 1st proximo, of a Court of Small Causes in the Military Cantonment of Chinsurah, with pecuniary jurisdiction extending to Rupees 500. The territorial jurisdiction of the Court shall be coterminous with the limits of the Cantonment.

A. EDEN,

Secy. to the Govt. of Bengal.

Public Works Department,—Bengal.

GENERAL,—ESTABLISHMENTS.

No. 167.

The 26th April 1865.

Notification.—Captain L. Russell, R. E., Officiating Superintending Engineer, Behar Circle, assumed charge of his duties on the afternoon of the 17th instant.

Notification by the Bengal Government, Public Works Department, No. 136 of the 3rd April 1865.

No. 168.

The 27th April 1865.

Leave of Absence.—Captain H. T. Forbes, R. A., Executive Engineer, (Second Grade,) Bhaugulpore Division, from the 1st proximo, until departure of the Mail Steamer of the 9th May, preparatory to proceeding to Europe on sick leave.

No. 169.

Notifications.—His Honor the Lieutenant-Governor is pleased to authorize that the Ganges and Darjeeling Road Division shall, as a temporary arrangement, be united with the Bhaugulpore Division.

2. Lieutenant R. C. Daubuz, R. E., Executive Engineer, (Fourth Grade,) Darjeeling Division, to officiate as Executive Engineer of the United Divisions with Head-Quarters at Bhaugulpore.

No. 170.

The 28th April 1865.

Baboo Khetternath Bhuttacherjee, Assistant Engineer of the Second Grade, joined* the Lower Assam Division on the 18th current before noon.

* Notification by the Bengal Government, Public Works Department, No. 115 of the 20th March 1865.

No. 171.

The Lieutenant-Governor has been pleased, subject to the approval of the Government of India, Public Works Department, to transfer the Tumlook, Midnapore, and Hidgellee Divisions from the Presidency to the Cuttack Circle with effect from the 1st May 1865.

Posting.—The services of Lieutenant G. D'A. Jackson, General List, Cavalry, Second Grade Assistant Engineer, having been made available from the General Department for employment in this Department, that Officer is, in anticipation of the approval of the Government of India, posted to the Garrison Engineer's Department, Fort William.

COMMUNICATIONS.

The 29th April 1865.

Declaration under Section II. of Act VI. of 1857 in supersession of the Declaration made under date the 12th June 1860.—Whereas it appears to the Lieutenant-Governor of Bengal that certain portions of lands in the villages noted below, in the District of Purneah, are required to be taken up by Government, at the public expense, for a public purpose, viz. for sites for Staging and Inspecting Bungalows on the Ganges and Darjeeling Road, this Declaration is made, under the provisions of Act VI. of 1857, to all whom it may concern :—

No.	Mouzah.	Pergunnah.	Area.	BOUNDARIES.
			B. C. D.	
1	Purmee Chuck ...	Dhurmpore ...	6 3 4	East Ganges and Darjeeling Road; West Mouzah Purmee Chuck; South ditto; North ditto.
2	Chirija, Bungrora oorf Dingra Ghaut ...	Badour ...	6 15 17	Mâl land of Mouzah Chorya on all sides.
3	Ditto ...	Ditto ...	3 12 4	Ditto.
4	Doomuria ...	Soorjapore ...	6 5 0	East Post Office compound; West Mâl land, jote Kokra Guch Doomria; South Ganges and Darjeeling Road; North Nudée Rumjan.
5	Guch Ilwabaree, Taloo- ka Daho Soho ...	Ditto ...	6 5 0	East Ganges and Darjeeling Road; West Mâl land, jote of Juma Oollah; South ditto; North ditto.

The 2nd May 1865.

Notification.—Captain W. S. Trevor, R. E., Controller and Examiner of Public Works Accounts, Bengal, resumed* charge of the Central Office of Account on the 29th ultimo before noon.

* Notification by the Bengal Government, Public Works Department, No. 53 of the 20th February, and No. 79 of the 4th March 1866.

J. E. T. NICOLLS, Lt.-Col., R. E.,

Offg. Secy. to the Govt. of Bengal,

P. W. Dept.

No. 213.

Opium Notification.

NOTICE is hereby given that the Fifth Sale of Opium, the provision of 1863-64, will be held at the Exchange Hall on Wednesday, the 10th May 1865, at 11 A. M., and will comprize 5,355 Chests, viz. :—

Behar Opium	...	2,920
Benares	...	2,435
Total Chests	...	5,355

2. The general Conditions of the Sale now advertized will be the same as usual : they may be ascertained by reference to the Notification issued on the 10th November 1864 and published in the *Government and Exchange Gazettes*, or on application at the Office of the Board of Revenue.

3. The latest dates for deposit and clearance will be the 15th and 25th May respectively, that is to say no Bank of Bengal Receipts, Government Promissory Notes, or other public Securities that may be tendered for deposit in redemption of Promissory Notes given by purchasers in the Sale-room will be received after 4 P. M. of Monday, the 15th May 1865, and no Bank of Bengal Receipts in full payment of lots will be accepted after 4 P. M. of Thursday, the 25th May 1865.

4. In addition to the quantity above advertized for sale the following quantities, more or less, of Behar and Benares Opium of 1863-64 will

be brought to sale in the present year on or about the dates specified below. The Board, however, reserve to themselves the right of altering these dates should circumstances render it expedient to do so :—

	Behar about Chests.	Benares about Chests.	Total about Chests.
On or about Monday, 12th June 1865	2,920	2,435	5,355
On or about Monday, 10th July "	2,920	2,435	5,355
On or about Thursday, 10th Aug. "	2,920	2,435	5,355
On or about Wednesday, 6th Sept. "	2,920	2,435	5,355
On or about Wednesday, 11th Oct. "	2,920	2,435	5,355
On or about Friday, 10th Nov. "	2,920	2,435	5,355
On or about Friday, 8th Dec. "	2,917	2,445	5,362
Total	20,437	17,055	37,492

By Order of the Board of Revenue,

T. BRUCE LANE,
Junior Secretary.

Fort William,
The 4th April 1865. }

Notice.

THE block of Waste Land measuring 1,001 acres, 2 roods, 32 perches, and situated at the Great Rungeet River, in the District of Darjeeling, which was assigned in 1854 to Major Frederick Bayley Wardroper, having been resumed in accordance with the Conditions of the Lease, is available for sale under the Waste Lands Rules.

R. B. CHAPMAN,
Secretary, Board of Revenue.

Notification.

Fort William, the 25th April 1865.

IN pursuance of the Notification from this Office bearing date the 3rd March 1864, notice

Depôts.	Mds.
Of Hidgollen—Russoolpore of 1268 and 1269 S. S.	1,08,000
Kistenuggur of 1268 S. S.	1,40,000
Ramnuggur of 1267 and 1268 S. S.	1,20,000
Kaleenuggur of 1267, 1268, and 1269 S. S.	1,92,000
Pooreeghatta of 1268	40,000
	6,00,000
Of Tumlook—Ghât Narainpore } of 1267, 1268, and 1269	...
including Russulpore Salt } at the Depôt	50,000
Of Chittagong—Sudder Ghât Agency Salt of 1268 S. S., and Arra- } can Salt of 1861-62 and 1862-63	80,000
Of Orissa—Cuttack of 1268 and 1269 S. S.	1,00,000
Pooree of 1268 and 1269 S. S.	2,00,000
Of Presidency Golahs at Sulkea, Balasore, of 1265, 1266, 1267, } and 1268	4,70,000
	15,00,000

N. B.—Deficiency in Stock of any year will be supplied by delivery of like Salt of other year at the Depôt.

is hereby given that fifteen lakhs of maunds of the Government Stock of Pungah or Boiled Salt stored in the Depôts noted in the margin will be put up for sale by public auction on the 5th of July next.

The sale will be held at the Presidency, the place to be hereafter notified.

The following are the Conditions of sale :—

1st.—The Salt will be offered for sale at an upset price to be determined at the time with reference to the then state of the market, and it will be sold to the highest bidder above that price.

2nd.—The sale shall commence at the hour of 11 A. M. of the day abovementioned and shall not be continued after the hour of 5 P. M., but if at that hour any of the Lots advertised for sale shall remain unsold the sale may, at the discretion of the Board of Revenue, be resumed on the next day following (not being Sunday or a public holiday) at the hour of 11 A. M., and so on until the whole of the remaining Lots are disposed of, or, if the whole quantity advertised shall not be sold on the day appointed, the Board may dispose of the Lots which remain on hand at a future sale.

3rd.—Each Lot will comprize one thousand maunds of Salt, the maund being of forty seers of eighty tolahs to the seer.

4th.—The Salt will be deliverable from the Store Depôts.

5th.—A Promissory Note for the sum of one hundred Rupees shall be taken as a deposit on each Lot from the purchaser in the Sale Room and before the Lot is registered in the Sale Book, and all such Promissory Notes shall be redeemed on the part of the purchasers at this Office by Bank of Bengal Receipts, or by substitution of other Public Securities of the Bengal Government on or before 4 o'clock in the afternoon of the fifth day after the sale, or on the other hand failing such redemption by the time aforesaid, then the Lot or Lots for which no Bank of Bengal Receipts, or deposit of other Public Securities as aforesaid shall have been delivered in shall be re-sold at such time or times and under such conditions of re-sale as the Board of Revenue shall see fit. All losses and expenses whatsoever attending such re-sale shall be borne and paid by the defaulters, whilst any profit accruing from such re-sale shall be credited to Government.

6th.—The Promissory Notes taken on the day of sale under the lastmentioned condition, if remaining unredeemed at 4 o'clock of the fifth day following the day of sale, will be placed in the hands of the Solicitor to the Government for realization.

7th.—No Tender of Money, Bank of Bengal Receipts, or Public Securities on account of Salt upon which the prescribed deposit may not have been made before 4 o'clock of the fifth day following the day of sale will be afterwards accepted.

8th.—The duty on the Salt shall, unless the purchaser wishes to bond it, be paid for within sixty days from the day of sale; and in case any Lots shall not be so paid for and adjusted, then the cash deposit made under the fifth condition, or any Public Securities that may have been deposited on account of such Lots, shall be forfeited and the Salt shall be disposed of on account of Government at such time and in such manner as the Board of Revenue shall think fit, and the first purchaser shall further be required to make good any loss or difference of price between that obtained at the re-sale and the amount at which the Salt was first purchased, forfeiting all advantages that may arise from such re-sale.

9th.—For any Lots which may remain uncleared beyond the above period of sixty days, excepting

such as may be bonded, Golah rent will thereafter be charged at the rate of four Rupees per mensem for each 100 maunds.

10th.—The Salt may be bonded in a Government or a Private Golah under the Bonding Rules applicable to Sea-imported Salt.

11th.—Certificates specifying the name or names of the purchaser or purchasers, the number of the Lots sold, and the description of Salt purchased will be delivered on payment of the deposit at the time and in the manner mentioned in condition 5th, and each Certificate to be so granted must be returned to the Office of the Board before any Orders and Rowannahs (corresponding with such Certificate) for the delivery of the Salt shall be issued.

12th.—No Orders and Rowannahs for the delivery of any Lot of Salt shall be issued until payment in full of price and duty shall have been made for the same.

13th.—Fees must be paid for Rowannahs agreeably to Clause 5, Section XLVI, Regulation X. of 1819.

14th.—No deposit of Public Securities under the 5th of the present conditions will be received in this Office, except from the party recorded as the purchaser in the Sale Book, or his authorized Agent. The receipt for deposit of Public Securities will be granted only in the name of such purchaser, and the Securities so deposited will be returned when payment in full has been made by the said purchaser or his order.

15th.—The Officer superintending the sale on the part of the Board of Revenue is empowered to reject, at his discretion, the bid of any individual unless such individual shall on demand tender at the time a deposit, either in Government of India Notes, Bank of Bengal Receipts, or Government Securities, a sum equal to the amount for which a Promissory Note would otherwise be taken under the 5th of these conditions.

16th.—The purchaser of any Lot shall have the option of naming and purchasing in immediate succession, at the same price and under the same conditions, any number of Lots of the same Salt not exceeding altogether fifty Lots; provided always that there remain a sufficient number of Lots of the Salt to complete the said fifty.

17th.—In the event of any dispute or difference touching or concerning any matter or question arising out of the sale of the Salt included in this Notification, or adjustment of the account thereof, the same shall and may be tried and decided in the High Court of Judicature at Fort William in Bengal.

By Order of the Board of Revenue,

T. BRUCE LANE,
Junior Secretary.

FORT WILLIAM,
The 25th April 1865. }

STATEMENT of Government Promissory Notes enforced for payment of Interest in London, shewing the total Amount outstanding according to the Registers received in this Office up to 21st April 1865.

	4 per Cent. of Transfer of 1865.	4 per Cent. of 1824-25.	4 per Cent. of 1928-29.	4 per Cent. of 1832-33.	4 per Cent. of 1835-36.	4 per Cent. of 1842-43.	4 per Cent. of 1854-55.	5 per Cent. Public Works of 1854-55.	5 per Cent. of 1856-57.	5½ per Cent. of 1859-60.	3½ per Cent. of 1853-54.	4½ per Cent. of 1856-57.	Total Rs.
Amount brought forward } from Statement dated } 12th April 1865.	....	53,000	300	25,17,500	23,12,000	96,22,200	66,68,200	33,21,800	4,84,48,900	2,49,44,300	17,600	16,000	9,79,21,800
ADD:													
Amount enforced at Madras as per Registers received up to date.	....	....	....	....	....	8,000	1,500	....	46,700	20,000	....	....	76,200
Amount enforced at Bombay as per Registers received up to date.	....	....	....	....	1,100	4,500	1,000	14,000	58,000	1,28,000	....	....	2,06,600
Amount enforced at Calcutta up to date.	8,100	....	....	....	21,900	27,900	500	....	1,31,200	1,35,500	....	....	3,25,100
Total ...	8,100	53,000	300	25,17,500	23,35,000	96,62,600	66,71,200	33,35,800	4,86,84,800	2,52,27,800	17,600	16,000	9,85,29,700
DEDUCT:													
Amount removed from the London Books as per Registers received up to date.	....	....	....	10,600	....	....	....	....	....	....	....	....	10,600
Total ...	8,100	53,000	300	25,06,900	23,35,000	96,62,600	66,71,200	33,35,800	4,86,84,800	2,52,27,800	17,600	16,000	9,85,19,100

FORT WILLIAM; }
 Loan Office, }
 The 25th April 1865. }
 R. P. HARRISON,
 Accountant-General to the Government of India.

Notice

Is hereby given that a Special General Meeting of the Justices of the Peace for the Town of Calcutta will be held at the Town Hall on Wednesday, the 10th of May, at 11 o'clock A. M., to take into consideration the letter of the Secretary to the Government of Bengal, No. 1532 of the 13th March 1865, regarding a Scheme for the Water-supply of Calcutta adopted by the Justices at their Ordinary Meeting on the 6th of March 1865.

R. TURNBULL,

Secy. to the Justices of the Peace.

OFFICE OF THE JUSTICES
OF THE PEACE;
1, Chowringhee Road,
The 27th April 1865.

Suburban Municipality.

NOTICE UNDER SECTION XXX. OF ACT III.
(B. C.) OF 1864.

NOTICE is hereby given that the valuation and measurements of Grand Division II. of the Suburbs of Calcutta noted in the margin have been completed, and the

East Noyabad, Katkoerah.
East Durkhin Daroo, Durkhindree.
Noyabad, Belgatcheeah, Ooltadangah.
Neer Ooltadangah, Bagumree.
Gouriberre, Foreaparah, and Mannick-tollah.

Books containing
the said valuation
and the rates
assessed can be
inspected on any

day (Sunday excepted) at the Office of the Municipal Commissioners at Alipore between the hours of 11 o'clock A. M. and 4 P. M. free of charge.

The Commissioners will, from and after the 15th May, sit daily (Sundays excepted) between the hours of 11 A. M. and 4 P. M. to hear all appeals connected therewith under Section XXX. But no such appeal will be received after the expiration of fifteen days from the publication of this Notice.

A. J. R. BAINBRIDGE,

Offg. Magistrate and Chairman.

OFFICE OF THE MUNL. COMMRs.
FOR THE SUBURBS OF CALCUTTA,
The 1st May 1865.

Notice.

SALT LAKES RECLAMATION AND IRRIGATION.

A Commission has been appointed by the Government under Section XIII., Act XXII. of 1863, for the purpose of enquiring into and reporting on all points connected with the project of "the Salt-water Lakes Reclamation and Irrigation Company, Limited." Communications and representations on the subject should be sent in before the 15th of May addressed to the President at the Office of the Commission.

H. L. DAMPIER,

President of the Commission.

OFFICE OF THE COMMISSION;
18-3, Theatre Road,
Calcutta, the 26th April 1865.

Notice.

MR. F. W. REES, Assistant Collector of Revenue, has been authorized to draw Bills on Government Treasuries.

C. T. BUCKLAND,
Commissioner.

DACCA,
The 25th April 1865.

Nuddea Rivers.

Report shewing the least depth in the present Navigable Channels from the 16th to 22nd April 1865.

NAMES OF RIVERS.	Least Depth of Water.	REMARKS.
MATABANGAH.	Ft. In.	
Above Entrance in Ganges ...	7 0	
On the Entrance Shoal ...	0 6	
Thence to Hat Bouleah, 44 miles ...	0 9	
Hat Bouleah to Alickdeah ...	Closed.	
Alickdeah to Kissengunge, 38 miles ...	1 6	
Kissengunge to Hooghly River, 34 miles ...	4 0	
BHAUGIRUTTEE.		
Entrance Bar ...	7 0	
Below the Entrance ...	4 0	
Thence to Jeagunge ...	2 9	
Jeagunge to Cutwa, 60 miles ...	2 6	
Cutwa to Nuddea, 46 miles ...	2 6	
JELLINGHEE.		
Entrance ...		
Thence to Kureempore, 19 miles ...	Closed.	
Kureempore to Teeakatta, 35 miles ...	2 6	
Teeakatta to Nuddea, 60 miles ...	3 4	

Height on Gauge at Berhampore, on the 24th April 1865, 6½ inches below Zero.

W. R. TUCKER, Captain, R. E.,
Offg. Exe. Engr., Berhampore Division.

BERHAMPORE,
The 25th April 1865.

Results of the Meteorological Observations taken at the Surveyor-General's Office, Calcutta, during the Week ending Saturday, 29th April 1865.

MONTH.	Date.	Reduced Reading of Barometer at 10 A. M.	THERMOMETER.		Daily Range of the Temperature.	Mean Temperature for the day.	Mean Wet Bulb.	Computed Mean Dew-point.	Mean Degree of humidity for the day.	Prevailing Direction of Wind during the day.	Rain.	Max. Pressure of Wind.
			Highest Reading.	Lowest Reading.								
		Inches.	⊖	⊖	⊖	⊖	⊖	⊖			Inches.	lbs.
April	23	Sunday	.....	.....	.....	.....	.....	.....	.....	S. E. & S.	1.36	
	24	29.786	91.0	76.2	14.8	82.5	78.3	70.2	0.82	S.		
	25	781	93.8	70.8	14.0	86.7	80.8	77.4	.77	S.		
	26	806	92.8	81.4	11.2	88.4	80.8	76.0	.74	S.		
	27	845	91.4	77.0	13.5	84.3	78.9	74.0	.73	S.		
	28	802	91.6	80.6	11.0	86.0	79.3	74.9	.71	S. (high.)		
	29	686	90.6	75.8	14.8	86.0	78.0	74.1	.71	S. (high.)	0.85	

The mean Temperature and the mean Wet Bulb are derived from the twenty-four hourly Observations made during the day. The Dew-point is computed with the Greenwich constants. The figures in column 10 represent the humidity of the air, the complete saturation of which being taken at unity.

The extreme variation of Temperature during the past week	... 18.0
The Max. Temperature during the past week	... 93.8
The Max. Temperature during the corresponding period of the past year	... 103.6
The mean humidity during the past week	... 0.75
The mean humidity during the corresponding period of the past year	... 0.63
	Inches.
The total fall of rain during the past week	... 1.71
The total fall of rain between the 1st January and the 29th ultimo	... 8.58
The total fall of rain during the corresponding period of the past year	... 2.64

GOPPENAUH SEN,
In charge of the Observatory.

The 1st May 1865.

Notice.

BABOO JUDOO NATH ROSE, Deputy Collector, was placed in charge of the Chumpanun Treasury in January 1865 and been authorized to draw Bills on all Treasuries.

G. F. COCKBURN,
Commissioner.

PATNA;
Commissioner's Office,
The 16th April 1865.

Notice.

CERTAIN Effects belonging to the Estate of the late Mr. W. Powell, a European British Subject, who died intestate at Barrakur on the 6th instant, have been placed under the Seal of this Court and will be delivered to any person who may be duly authorized to receive the same.

R. P. JENKINS,
Offg. Judge of Beerbhoom.

ZILLAH BEERBHOOM,
The 18th April 1865.

Notice.

CERTAIN Effects belonging to the Estate of the late Mr. C. Portnell, a European British-born Subject in the employ of the East India Railway Company, who died intestate at Jamalpore, Monghyr, on the 17th May 1864, have been placed under the Seal of this Court and will be delivered to any person who may be legally authorized to receive the same.

J. W. DALRYMPLE,
Judge.

ZILLAH BHAUGULPORE;
Judge's Office,
The 18th April 1865.

Notice.

MR. J. TWEEDIE made over charge of the Mynagoree Treasury to MR. W. H. VERNER on 6th instant.

MR. VERNER is authorized to draw Bills upon the Government Treasuries.

J. C. HAUGHTON,
Polling Agent

JULPIGOREE,
The 7th April 1865.

[830]

NOTICE.

List of unclaimed Packages lying on the Custom House Wharf.

Date of Landing.	Mark or Address of Packages.	Ships.
1864, Dec. 9th ...	1 Case, Lieutenant Buckle	... Shannon.
1865, Feb. 22nd ...	1 Tin Tub, None	... Str. Erymanthe.
1864, Dec. 9th ...	1 Case, Captain Griffin, Commanding Armstrong Mountain Battery	... Str. Nubia.
" 9th ...	1 Parcel, [W. and Co.,] J A	... Ditto.
Oct. 19th ...	10 Cases, F. W. Brown, and Co.	... Str. Gelconda.
Sept. 28th ...	7 Cases, [W. D. and Co.]	... Str. Bengal.
Oct. 29th ...	1 Case, F. W. Brown and Co.	... Str. Simla.
" 29th ...	3 Cases, [W]	... Ditto.
" 29th ...	1 Case, [S]	... Ditto.
1865, Feb. 1st ...	1 Parcel, Smith Kennedy	... Str. Nemesis.
" 1st ...	1 Truss, Messrs. Crook, Rome and Co.	... Ditto.
" 20th ...	1 Case, J D, No. 12	... Str. Erymanthe.

CALCUTTA CUSTOM HOUSE, }
The 2nd May 1865.

J. A. CRAWFORD,
Collector of Customs.

NOTICE.

THE undermentioned unclaimed Packages if not cleared on or before the 15th May 1865 will be sold for the realization of Duty, Wharfage, &c., under Section LVII. of Act VI. of 1863:—

Date of Landing.	Mark or Address of Package.	Ship.
1865, Feb. 3rd ...	1 Bundle Coir Yarn, A T	... Frane Morin.

CALCUTTA CUSTOM HOUSE, }
The 2nd May 1865.

J. A. CRAWFORD,
Collector of Customs.

Commissariat Notice.

SEALED Tenders are invited for supply of Beef and Mutton to Troops at Fort William and Dum-Dum, on the march, and in Camp, at various distances from the Presidency, for ten months from 1st July next.

Form of Tender to be had at No. 6, Park Street, where Tenders will be received up to 2 P. M. of the 8th, and opened at noon on the 9th May 1865.

Separate Tenders required for each Station.

Earnest deposit to be in Government Promissory Note or Bank of Bengal Receipt.

SCHEDULE.

NAMES OF ARTICLES.	Period for which Contract is invited.	Aggregate Quantity probably deliverable during the Contract.	Where and to whom the Articles are deliverable.	Instalments deliverable and specific time of delivery.	Amount of Earnest Money to be lodged with Tender.	Security to be deposited on acceptance of Tender by the Commissary General.	Quality of Supply.	
<i>Port William.</i>	From 1st July 1865 to 30th April 1866.	lbs.	Ration Grounds and Hospitals, To Commanding and Medical Officers.	Half an hour before sunrise daily, according to daily Indents, &c.	3,000	10,000	Best grass-fed.	
Beef ...		3,06,690						
Mutton ...		51,100			3,000	10,000		
<i>Dum-Dum.</i>								
Beef ...		2,16,300			3,000	10,000		
Mutton ...		36,300						

CALCUTTA ;
Commissariat Office,
The 7th April 1865. }

G. S. MACBEAN, Major,
Assistant Commissary General.

Commissariat Notice.

SEALED Tenders for the sale of 153 fallen Trees in the Barrackpore Government Park will be received at Barrackpore Commissariat Office on the 4th May 1865 up to 4 P. M. and opened there at noon of the following day.

2. Forms of Tenders and information of the size and description of the Trees can be had on application at this Office.

BARRACKPORE ;
Executive Commissariat Office,
The 18th April 1865. }

W. BRIDGE, Major,
Deputy Assistant Commissary General.

Notification.

The following Tea Plantations, with factory, godowns, houses, out-houses, &c., the property of Government, at Holta, in the Kangra Valley, is offered for sale at the upset price specified below :—

The Plantation is distant about 23 miles from Dhurmsalah and 22 miles from Kote Kangra. There are on the estate a large slated factory, two slated godowns, and two slated houses for Overseer and Assistant Overseer, barracks for Chinese Tea-makers, &c.; and the stock and block of the Tea factory are complete for Tea operations and in working order.

The Tea Plantation consists of 677 (six hundred and seventy-seven) acres, more or less, of which there are under cultivation with Tea about 530 (five hundred and thirty) acres, the remainder being waste or covered with Cheer (*Pinus longifolia*) but the greater portion fitted for Tea cultivation.

At a short distance from the Plantation there is a Cheer Forest about 100 (one hundred) acres in extent, in which the purchaser will have the right of cutting timber. The wood is well adapted for making Tea chests.

The yield of the Tea Plantation may be estimated this season at 15 33,000 (thirty-three thousand) of Tea, and 1,800 (eighteen hundred) maunds of Tea Seeds. 100 (one hundred) maunds of Tea Seeds, the produce of the season, will be given to the purchaser.

The estate will be sold in fee-simple, free of all demands on account of land revenue, exclusive of existing local cesses, such as the Road, Educational, and Postal cesses, or such as may be hereafter legally imposed, at an upset price of 2,00,000 Rupees (two lakhs of Rupees.)

The Plantation and Factory will be transferred to the purchaser or purchasers on the 1st May 1866, on or before which date the purchase money must be paid at the General Treasury, Calcutta.

All tenders must be made in writing.

Every tender should be superscribed—"Tender for Tea Plantations, Holta," and will be registered by the Superintendent, Tea Plantations, Punjab, at Saharunpore, on the date of receipt, in a book which he will keep, together with the tenders in his own custody, under lock and key. The highest registered tender at the time being will be communicated by the Superintendent to any enquirers up to the time of sale, but the names of parties who have tendered shall in no case be disclosed.

The register of tenders will be examined at noon on the 2nd April 1866 by a Committee consisting of the Superintendent, Tea Plantations, and Deputy Commissioner, at the Factory, Holta, in the presence of all parties who may attend; the amount of the highest tender, or if there be more than one tender of equal amount, the number and amount of such tenders, but not the names of the parties tendering, will be publicly declared, and

the highest tender in writing above the upset price at 4 P. M. will be accepted on the part of Government by the Committee.

On the tender being accepted by the Committee the purchaser must deposit five per cent. of the purchase money, which will be forfeited if the amount of the purchase money be not paid in full on the date specified. Agents must be supplied by their principals with sufficient powers of attorney.

The above particulars are believed, in good faith, to be correct, but intending purchasers must make their own enquiries, as no reclamation can be listened to after sale.

References may be made to the Deputy Commissioner, Dhurmsalah, or to Dr. Jameson, Superintendent, Botanical Gardens, Saharunpore.

By Order of the Hon'ble the Lieutenant-Governor,

T. H. THORNTON,
Secretary to Govt., Punjab.

Notice.

SALE OF WASTE LANDS.

NOTICE is hereby given that the undermentioned Lot of Waste Land, estimated to consist of about 200 Acres, more or less, situated in Pergunnah Shoonapoor and Mouzah Badreepar, Zillah Cachar, and bounded as shewn at foot of this Notice, having been applied for under the "Rules for the sale of unassessed Waste Lands in the Lower Provinces of Bengal," will be put to sale by auction to the highest bidder above the upset price of two Rupees eight annas per Acre, on the 2nd day of July 1865, at the Office of the Deputy Commissioner of Cachar, should no objection be preferred such as to render it necessary to defer the sale under the provisions of Act XXIII. of 1863. The sale will be made in the manner, and subject to the conditions prescribed by the Rules above cited, and to the provisions of Act XXIII. of 1863.

R. STEWART,
Deputy Commissioner.

ZILLAH CACHAR;
Deputy Commr's Office, }
The 14th February 1865. }

BOUNDARIES OF LOT No. 4.

East—Settled lands of Merashdars.
West—Badree Nuddee and settled lands of Merashdars.
North—Badree Nuddee.
South—Settled lands of Merashdars.

R. STEWART,
Deputy Commissioner.

Notice.

REQUIRED for the Akyab Treasury Department a Head Clerk. Salary, Rupees 200 per mensem. None need apply who have not good Testimonials both of their ability to fulfil the duties of the Office and general good character.

E. J. SPILSBURY,

Deputy Commissioner.

AKYAB; }
Deputy Commissioner's Office,
The 25th March 1865.

Wanted.

FOR the Office of the Deputy Commissioner, Hazareebaugh, a Sheristadar in the Dewany side of the Court. Present salary Rupees 60, with probability of increase. Intimate knowledge of Oordee and Persian and a fair acquaintance with English indispensable. Application to be made in English by Candidates in their own handwriting and copies of Testimonials attached (post paid) to Deputy Commissioner, Hazareebaugh.

H. M. BODDAM,

Deputy Commr., Hazareebaugh.

HAZAREEBAUGH; }
Deputy Commr's. Office,
The 30th March 1865.

Notice.

NOTICE is hereby given that, with the express sanction of the Government of India, the ungranted Waste Lands, situate in the Sunderbuns south of the District of the 24-Pergunnahs, estimated to consist of about 11,69,327 acres, and within the several boundaries described hereafter, will be put up to sale by auction to the highest bidder above the upset price of Rupees 2 and annas 8 an acre, at noon on Saturday, the twentieth day of May, at the Office of the Board of Revenue, Calcutta, should no claim or objection of the nature of those provided for by Act XXIII. of 1863 be preferred such as to render it necessary to defer the sale.

It is to be understood that the sale, though made in general accordance with the "Rules for the sale of unassessed Waste Lands in the Lower Provinces of Bengal," will not be a sale under Act XXIII. of 1863, and that the purchaser will not obtain a complete title under that Act. The purchaser will be required to enter into a written engagement binding himself to be responsible for and to defend at his own risk any suit that may be brought against the Government as to rights in the land sold.

R. B. CHAPMAN,

Secretary.

BOARD OF REVENUE, L. P., }
The 18th April 1865.

Boundaries of the unappropriated Waste Lands lying in one Block in the Sunderbuns to the south of the 24-Pergunnahs District.

SOUTHERN BOUNDARY.

The Bay of Bengal.

WESTERN AND NORTHERN BOUNDARIES.

An irregular line starting from the point at which the Moree Gunga or Channel Creek flows

into the Bay of Bengal, and proceeding generally in a northerly direction as far as the Noukchura, which forms the southern boundary of Lot 115, and generally in an eastern direction from the said Noukchura to the junction of the Chuar Gang, the Colputtooa, and the Arpaingassya River between Lots 166 and 169, but following the bends described below:—

From the mouth of Moree Gunga or Channel Creek northwards to the point at which it is joined by the Naukhana Dooagra; then east along the said Naukhana Dooagra and the Hetalya Doanya, and the Baurchurra Nuddee; North along the Calchura, Noukchura, and the portion of the Poukchura which lies between the Noukchura and the Thakoorun River; the said Thakoorun, Hulloonree, or Jumeera River as far south as the Creek which forms the south-western boundary of Lot 118; to the south-east and then another Creek northwards, which forms the Eastern boundary of Lot 118, till the said Creek joins the Boula River or Kaikalmaree south of Lot 120; north along the Kaikalmaree, Bainchoppy, Petkulchand, and Thakooran River, as far north as the imaginary line which forms the boundary between the northern and southern portions into which Lot 122 has been divided by the Revenue Officers; East along the said line till it joins the Nypekenca; South along the said Nypekenca to its junction with the Mutlah River, northwards along the Mutlah as far the northern boundary of Lot 126; East along the said northern boundary indicated by a Creek in Lieutenant Hodge's Map to its junction with the Biddah River; North along the said Biddah River, the Curtal, the Moukhallee, and the imaginary line which forms the south-eastern boundary of the portion of Lot 132 which has been assigned to Mr. Shepherd, (*vide Gazette* of 2nd November 1864, page 943); South along the Hutakhal and the Khals which form the boundaries between Lots 132 and 142, Lots 143 and 132, and Lots 143 and 149, as shewn in Hodge's Map; East along the Melmell, Carar, and Poonjally to the Roymungul River; North along the Roymungul and Burrakoolya Khal to the Canay Rattee Khal, as far as the imaginary line which forms the boundary between the eastern or granted portion, and the western or ungranted portion of Lot 163; Southwards along the said imaginary line to its junction with the imaginary line which is shewn in Hodge's Map as forming the boundary between Lots 162 and 163; East along the last mentioned imaginary line to its junction with the Khalindee Nuddee; South along the Khalindee Nuddee; East by the line between the cultivated and uncleared portion of Lot 164, and the line between the cultivated and uncleared portion of Lot 172; North-East along the line between the cultivated or settled and the uncleared portion of Lot 165; East along the Eshamuttee River from Chundepoor; North along the boundary of the Sunderbuns Forest, as shewn in Hodge's Map as far as Hajepoor; South-East along the Chaar Gang to its junction with the Colputtooa River.

EASTERN BOUNDARY.

The Arpaingassya River, part of the Namood Samoonder or Burra Panga River, and the Malinchen River.

A.

List of Lots and Lands south of Lots divided into Blocks included within the above boundaries.

Numbers of Lots according to Lieutenant Hodge's Map of the Sunderbuns.	Estimated Area in Acres.	Numbers of Lots according to Lieutenant Hodge's Map of the Sunderbuns.	Estimated Area in Acres.	Numbers of Lots according to Lieutenant Hodge's Map of the Sunderbuns.	Estimated Area in Acres.
Lot		Lot		Lot	
.....	.....	152	10,909	172, a portion	13,215
121	3,636	153	9,586	173	8,264
122, 2nd portion	7,935	154	12,562	174	14,206
124	6,280	155	25,124	175	8,264
125	8,595	156	9,926	176	6,611
126	8,595	157	8,925	177	11,900
.....	.....	158	10,909	178	14,206
132, a portion	14,793	159	8,595	179	6,810
141	7,273	160	14,545	179½	3,438
144	11,900	161	5,289	180	4,297
145	4,958	162	21,818	181	12,892
146	15,533	163, 2nd portion	5,619	182	13,223
147	9,256	164, a portion	6,300	183	10,909
148	13,545	165, single portion	16,950	184	9,256
149	4,958	169	12,892	185	15,867
150	10,909	170	15,768	186	8,264
151	4,958	171	15,578	187	9,256
			Total	...	5,10,285
Add area of lands south of the Lots divided into Blocks				..	6,52,531
And also of isolated Lots as per Statement B.				...	6,511
			Total Acres	...	11,69,327

B.

BOUNDARIES OF UNAPPROPRIATED ISOLATED LOTS.

Lot 90 3,867 Acres.

North—By an imaginary straight line drawn from the junction of Bairmaree Gang with Khajoortullah Khal to the junction of Akratollah and Huish Khals with Chitpore Khal and a part of Chitpore Khal.

East—By the Betnestullah Gang.

South—By the Khajoortullah Khal.

West—By the Khajoortullah Khal.

Lot 128, a portion 2,644 Acres

North—By a portion of Hooghly Nuddee.

East—By an imaginary straight line drawn from the Hooghly Nuddee to the Khal which separates Lot 128 from Lot 127, but which, in Lieutenant Hodge's Map, is not named.

South—By the Khal separating Lot 128 from Lot 127.

West—By the Mutlah River.

Notice.**SALE OF WASTE LANDS**

NOTICE is hereby given that the undermentioned Lots of Waste Lands, estimated to consist of about 4,100 acres, more or less, situated in Mouzabs Joreegooree, Dhollah, Kootoocha, Tipling, and Narainpore, in the District of Luckimpore, Assam, and bounded as shewn at the foot of this Notice, having been applied for under the "Rules for the sale of unassessed Waste Lands in the Lower Provinces of Bengal," will be put up to sale by auction to the highest bidder above the upset price of two Rupees and eight annas per acre, on the 4th day of July 1865, at the Office of the Deputy Commissioner of Revenue of Luckimpore, Assam, should no objection be preferred such as to render it necessary to defer the sale under the provisions of Act XXIII. of 1863. The sale will be made in the manner, and subject to the conditions, prescribed by the Rules above cited and to the provisions of Act XXIII. of 1863.

BOUNDARIES.

Lot No. 1.—About 1,000 acres in Mouzah Joreegooree.

East—Banduree Pond and Deekhom Jan, 800 yards from the point marked A. to B., 960 yards from B. to C., and 800 yards from C. to D., as marked in rough sketch, i. e., from a pillar in the banks of the Khar Jan to the Banduree Pookree on the banks of the Deekhom Jan, not crossing this latter Jan, and thence south to another pillar on the bank of the Deemoor Nuddee.

West—A line running north and south and from pillar to pillar 1,960 yards.

North—Khar Jan.

South—Deemoor River.

Lot No. 2.—About 500 acres in Mouzah Dhollah.

East—A line from pillar to pillar about 635 yards.

West—Suddyah Road about 635 yards.

North—A line from pillar to pillar about 1,270 yards.

South—A line from pillar to pillar about 1,270 yards.

Lot No. 3.—About 500 acres in Mouzah Dhollah.

East—A line running north to south from pillar to pillar 1,270 yards.

West—A line running north to south from pillar to pillar 1,270 yards.

North—Dhollah River.

South—Kote Korrah Jan.

Lot No. 4.—About 100 acres in Mouzah Kootoocha.

East—Jan.

West—Bor Bheel.

North—Bor Bheel.

South—Gereekee Bheel.

Lot No. 5.—About 500 acres in Mouzah Tipling.

East—Borboroonh Barea, 240 fars of 10 feet.

West—Koorookani Jan, 750 fars of 10 feet.

North—Tingroy River.

South—Factory Road, 516 fars of 10 feet.

Lot No. 6.—About 1,500 acres in Mouzah Narainpore.

East—River Dikrung (not navigable in dry season.)

West—2,694 yards A. B., bearing East to West.

North—2,694 yards C. D., bearing East to West.

South—Dufflahghor.

N. LOWIS, Lieutenant,

Assistant Commissioner in charge.

DIBROOGHUR;

Deputy Commissioner's Office,
The 21st March 1865.

Notice

Is hereby given that application has been made, pursuant to Act XXII. of 1863, to the Government of Bengal by the SALT WATER LAKES RECLAMATION AND IRRIGATION COMPANY, "LIMITED," for leave to reclaim and irrigate the lands known as the "Salt Water Lake" and the Tardah Jungle, situate in the District of 24-Pergunnahs, and also for leave to reclaim and irrigate any other lands adjacent to the said Lake and Jungle, and also to utilize the sewage conceded to the said Company by the Municipality of Calcutta, by irrigating therewith the said Lake and Jungle or such other lands, and also to construct all the necessary works for the above purposes.

The total area of the said Land and Jungle is forty-four-and-a-half square miles forming an irregular square, its average dimensions being about seven-and-a-half miles East and West by six miles from North to South; such area is intersected near the middle of its width by the Central Channel of the Lake and bounded on its South sides by Tolly's Nullah. The Tardah Jungle occupies the eastern portion, which is divided by the Katta Khāl.

The estimated cost of the works is Rupees thirty Lacs, and the said Company, with a capital of sixty Lacs of Rupees, has been established for the purpose of carrying out the same.

Dated this 25th day of March 1865.

BERNERS, SANDERSON, AND FERGUSON,

Solicitors to the Company.

Notice.

For Sale, by public Auction, at noon precisely on the 2nd May 1865, at Dibröoghur, Upper Assam, belonging to the Estate of the late Mr. J. N. Bishop, Tea Planter, a grant of fine forest Tea land, in fee simple, under Lord Canning's Resolution of the 17th October 1861, subject to a call of Rupees 2-8 an Acre by Government, comprising 528 Acres, surveyed and mapped with between four and five Acres of well covered flourishing Tea cultivation in its second year, situated about a couple of miles south of the Military road to Jeypore, and within eleven miles of the Station. Cash payable on delivery of the Transfer Certificate of possession. Costs of transfer to be paid by the Purchaser.

(Sd.) JAMES WARREN,

R. D. NUTHALL,

Attorneys of the Estate.

DIBROOGHUR,

The 16th March 1865.

*In the High Court of Judicature at Fort William in
Bengal, Ordinary Original Civil Jurisdiction.*

Receiver's Office.

SREEMUTTEE SIBOOSONDERY DASSEE,

vs.

RAYRUB CHUNDER COWAR AND
OTHERS.

NOTICE is hereby given that on Monday, the 22nd May 1865, at one o'clock in the afternoon, CHARLES SWINTON HOGG, Esq., Receiver of the High Court, will put up at his Office for Lease the undermentioned Talooks, Gardens, and Tanks, of which he has been appointed Receiver in the above Causes upon such terms and conditions as will be then made known, and upon such security as he may think fit, that is to say,—

In Zillah Hooghly.

Patoonee Talook, Lot Dohur Chuckley, in Pergunnah Parooah, containing three Mouzahs, viz., Bankistopore or Chinna Bussoodebpore and Panceeparah.

Durpotoonee Talook, Lot Hautneah, in Pergunnah Parooah, containing two Mouzahs, viz., Neez Hautneah and Puttee Mookondopore, two Gardens, and two Tanks at Hautneah.

For further particulars apply at the Receiver's Office.

RECEIVER'S OFFICE;

No. 5, Strand,
The 21st April 1865.

*In the matter of the Subordinate Medical Officers'
Widow and Orphan Fund.*

THIS Fund is in the course of distribution in the Office of the Accountant-General of the High Court to the persons named in Schedules K. and L. pursuant to the order of Court, viz,—

L. Bond.

Maria Harding.

S. M. Laughlin.

Percival James Baker.

John Herbert Baker.

Eveline Emily Baker.

L. M. A. Collins.

P. A. A. Collins.

M. L. Collins.

Anne E. E. Harding.

Isabella M. Harding.

Mary Anne McLaughlin.

E. A. F. Collins.

It will save trouble if the applicants bring with them the amount of the Office fees, that is, 10 Rupees for each Cheque, and Receipt Stamp.

W. THEOBALD,

Accountant-General, High Court.

Office No. 20,
Chowringhee,
The 4th April 1865.

Caution:

WITH reference to the SALE of the half share of, and in the sixth-sevenths share of (amongst other properties) all that Zemindary or Talook Mancoondoo, in Pergunnah Boro, in the Zillah Hooghly, with the Mouzahs and Kismuts appertaining thereto, advertised in the *Calcutta Gazette* of 19th April 1865 to be held by the Receiver of the High Court and Receiver in cause Aushootosh Day *vs.* Bholanath Roy Chuckerbutty on Friday, the 5th May next, intending purchasers are hereby informed that by a Decree of the High Court of Judicature at Fort William in Bengal in its Ordinary Original Civil Jurisdiction made and pronounced on the nineteenth day of April instant in a certain cause wherein Ramdhone Khan is plaintiff, and Sree Mutty, Nobinmoney Dossee, Charoo Chunder Ghose, Surrut Chunder Ghose, and Sumboonath Ghose are defendants, it was declared that the said defendants Sreemutty, Nobinmoney Dossee, Charoo Chunder Ghose, and Surrut Chunder Ghose as Executrix and Executors of Aushootosh Dey, deceased, had, by an agreement in writing under their hand bearing date the 8th July 1864, sold to the plaintiff their right, title, and interest as such Executrix and Executors as aforesaid of and in the half part or share which was of the said Aushootosh Dey, deceased, of and in the said Zemindary or Talook, and it was decreed that the said defendants Sree Mutty, Nobinmoney Dossee, Charoo Chunder Ghose, and Surrut Chunder Ghose as Executrix and Executors aforesaid should execute a Conveyance of the same to the said last mentioned plaintiff and do all acts necessary to complete his title thereto and to abstain from doing all acts which could prejudice the same. Any person or persons therefore purchasing the said property will do so at his risk and peril.—Dated this 26th day of April 1865.

BARROW, ~~SEN~~ AND WATSON,

Attorneys for Baboo Ramdhone Khan.

Cachar and Assam Company, "Limited."

NOTICE is hereby given that an Extraordinary General Meeting of the Shareholders of this Company will be held at their Office, No. 77, Clive Street, on Thursday, the 29th day of June next, at 12 o'clock, for the purpose of considering the alterations of the Articles of Association of the Company by giving to the Directors power to carry out a conditional Contract entered into by them for a sale of a portion of the Company's property, and (if deemed expedient) to pass a Resolution to that effect Also to alter the 18th Article of Association by substituting the months of March and September for the months of "February" and "August" for the holding of the Half-yearly Ordinary General Meetings.

W. E. JENKINS,

Managing Director and Secretary.

The 29th March 1865.

Statement of the Affairs of the Bank of Bengal for the Week ending 25th April 1865.

[illegible]

Rupees ..	6,04,37,674 1 6
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By Order of the Directors,
 GEO. DICKSON,
Secretary and Treasurer.

Notification.

I HEREBY notify, for general information, that a Digest of all the Criminal Laws, Constructions, Circular Orders, and Decisions of Sudder Courts from 1795 to 1864, with the exception of Regulations and Acts that are repealed since, is in the course of compilation in Bengali by me and will be published in the form of a Book entitled "Digest of Procedure and Penal Laws," and therefore hope that no one else would interfere.

HITLOLL MISSEER,
Zemindar and Honorary Magistrate
of Muncoor, Zillah Burdwan.

MANCOOR,
The 15th April 1865. }

विज्ञान ।

আমি সর্বসাধারণকে এতদ্বারা জ্ঞাত করিতেছি যে ১৭৯৩ সাল অবধি ১৮৬৪ সাল পর্যন্ত রদ রহিত বাদে মোজাদারী আইনের কনট্রাক্টসন সরকারের অধীন ও তদানুসঙ্গিক নজির আদি বন্ধভাবে সংগ্রহ করিয়া দণ্ডকাব্য সংহিতা নামে পুস্তক একখানি প্রস্তুত করিতেছি। অপর কেহ এই কার্যে হস্তক্ষেপ করিয়া নিরর্থক বিকল্প কার্য না করেন।

শ্রীহিতলাল মিশ্র,
জমিদার এবং অষ্টেভনিক মাজিস্ট্রেট।
মানকর জিলা সর্কসান।

मानकत ।
सम १२९२ साल, ४ दशमांथ । }

Notice.

A FEW copies of the "Magistrate and Collector's Manual," compiled by Mr. D. Hume, are available to purchasers for 30 Rupees a copy. Enquire of Baboo Oottma Chunder Chatterjee at the Office of the Board of Revenue, No. 2, Bankshall Street.

Notice.

THE HOOGHLY STEAM TUG COMPANY, "LIMITED."

THE Fourth Ordinary General Meeting of the Shareholders of the above Company will be held at the registered Office, No. 1, Fairlie Place, at noon, on Thursday, the 1st June 1865, for the purpose of receiving the Directors' Report, passing the Accounts, declaring a Dividend, and for the transaction of any other business that may be brought forward.

GRANT, SMITH & CO.,
Agents and Secretaries.

NATIONAL BANK OF INDIA, "LIMITED."*Authorized Capital*—ONE HUNDRED LACS OF RUPEES.

(One Million Sterling.)

Subscribed Capital—RUPEES 50,00,000 (£500,000.)

HEAD OFFICE ... *Calcutta.*
 BRANCHES ... *London and Bombay.*

AGENTS.MADRAS ... *Bank of Madras.***BOARD OF DIRECTORS.**WILLIAM ANDERSON, Esq., of *Messrs. Gordon, Stuart and Co.*GEORGE MILLER BLAUKE, Esq., of *Messrs. Hoare, Miller and Co.*CHARLES ESTCOURT CRESSWELL, Esq., of *Messrs. William Moran and Co.*FERDINAND SCHILLER, Esq., of *Messrs. Borradaile, Schiller and Co.*BABOO DOORGACHURN LAW, of *Messrs. Prawnkissen Law and Co.*BABOO HERALAU SEAL, *Zemindar.*BABOO POTIT PAUBUN SEIN, *Merchant and Exchange Broker.*M. RUSTOMJEE, Esq., *Merchant.***LONDON BOARD.**W. S. FITZWILLIAM, Esq., (*late Member of the Supreme Legislative Council of India, Director of the Land Mortgage Bank of India.*)SIR JOHN P. GRANT, K. C. B., (*late Lieutenant-Governor of Bengal, Director of Land Mortgage Bank of India.*)E. W. WINGROVE, Esq., (*late of Calcutta, Chairman of Union Bank of Ireland.*)**AGENT IN LONDON.**

A. F. HEWETT, Esq.

OFFICES IN LONDON... *No. 12, Fenchurch Street.***Rules of Business observed at Calcutta.****EXCHANGE.**

The Bank grants Drafts on London and Bombay at favorable rates of Exchange. It also negotiates and collects Bills payable in those places. Instructions respecting Family Remittances carefully attended to, and when requested, and the necessary particulars are furnished, the Bank will forward First Copy of the Bill direct to the parties in England.

CURRENT DEPOSIT ACCOUNTS.

The Bank opens Current Deposit Accounts and allows Interest thereon at the rate of 2 per cent. per annum on Balances of Rupees 200 and upwards. Special arrangements may be made respecting Balances of large amounts.

FIXED DEPOSITS.

The Bank receives money on Fixed Deposits and allows Interest thereon as follows:—

On Deposits subject to 10 days' notice of withdrawal ... 5 per cent. at present.*

On Deposits subject to 3 months' notice of withdrawal ... 4 ditto.

On Deposits subject to 6 months' notice of withdrawal ... 5 ditto.

On Deposits subject to 12 months' notice of withdrawal ... 6 ditto.

* On Deposits subject to ten days' notice of withdrawal on either side the Bank allows interest at 2 per cent. below the Bank of Bengal's minimum rate of discount, rising and falling therewith, but never exceeding 5 per cent., or falling below 2 per cent. The rate allowed at present is 5 per cent.

* Parties who have Current Deposit Accounts with the Bank can transfer any portion of their Credit Balance to a Fixed Deposit.

LOANS AND DISCOUNTS.

The Bank discounts Government Bills, also Private Bills and Notes and Hoondees, and will grant Loans on Government Paper, Goods, Bullion, Bank Stock, Shares, and other good and approved Security.

COMMISSION.

On the Purchase or Sale of Government Paper, Bank Stock, or other Joint Stock Shares $\frac{1}{4}$ per cent. on the amount invested or realized.

The Bank also receives Government Paper and other Securities for safe custody, and the Interest and Dividends thereon will be realized for constituents and credited to their accounts free of charge. On giving Securities out of safe custody a commission of $\frac{1}{4}$ per cent. will be charged.

The amount of Interest and Dividends can also be remitted to England, or elsewhere, as they may direct.

AGENCY.

The Agency of Country Banks undertaken on favorable terms, and all other ordinary Banking business transacted.

All Remittances should be made payable to "The Manager, National Bank of India, Limited," on application to whom any further information respecting the Rules of Business may be obtained.

By Order of the Directors,

R. O. SAWERS,
Manager.

NATIONAL BANK OF INDIA;
Calcutta,
 The 30th November 1864.

INSOLVENT COURT.

ASSIGNEE'S OFFICE NOTICE.

Pursuant to Act No. XXVII. of 1841.

NOTICE is hereby given that in the event of no claim being established to the unclaimed Dividends hereunder mentioned within twelve months from this date, such Dividends will be distributed among such of the Creditors of the undermentioned Insolvent Estate as shall have established their claims against such Estate respectively. —

ESTATE OF COLVIN AND CO.

Names of Creditors.	9th Dividend at 5 annas per Cent.
Artillery Wine Fund	1 3 6
Band, 46th Native Infantry	0 12 9
Barry, Serjeant J.	2 0 6
Billiard Fund, 51st Regiment	0 15 2
Boileau, Colonel J. P.	7 5 11
Boileau, Lieutenant F. B.	1 3 6
Bond, Captain H.	8 6 4
Borthwick, Captain W.	30 1 3
Bridgman, Lieutenant P.	3 2 6
Browne, Colonel E. C.	33 3 8
Budd, Ensign P.	0 8 10
Burgh, Colonel W. D.	2 5 6
Burroughs, Captain W.	18 8 2
Burroughs, Captain L.	7 7 11
Bell, Serjeant George	0 10 5
Brougham, Conductor Henry	0 9 11
Baillie, Sir William	1 4 0
Boscawen, Lieutenant G. B. M.	0 9 11
Brooke, Colonel C. W.	0 11 3
Chadwick, Lieutenant S.	1 15 7
Chalmers, Major R.	2 1 4
Cookson, Cornet W.	0 8 3
Cubitt, Captain W.	0 12 9
Cruikshank, Ensign G.	1 0 0
DeBude, Captain H.	0 14 2
Denniss, Captain G. G.	6 0 8
Dwant, Colonel James	3 3 0
Edwards, Lieutenant T.	0 12 10
Fendall, Major W.	0 10 4
Finnis, Lieutenant John	12 0 4
Fisher, Cadet G. A.	1 8 7
Fisher, Lieutenant James	2 3 7
Geddes, Lieutenant J. M.	2 4 3
Gordon, Cornet James	0 14 5
Grant, Conductor A.	4 11 4
Grane, Lieutenant S. J.	0 9 9
Hamilton, Captain C.	0 9 10
Harvey, R., 17th Foot	0 13 4
Hervey, Cornet E.	0 9 0
Hull, Colonel W.	0 11 4
Irvine, Conductor P.	2 12 6
Jeffreys, Captain E.	24 15 2
Jervis, Lieutenant W.	7 5 10
Johnson, Sub-Conductor T.	2 13 2
Kennedy, Captain J. T.	8 4 0
Keys, John	1 9 3

Names of Creditors.	9th Dividend at 5 annas per Cent.
Keily, Thomas	1 11 1
King, Major C. P.	8 12 11
Kaw, James	1 4 0
Ledlie, Major W.	4 5 10
Long, Lieutenant S.	1 3 1
Lowe, Serjeant S.	11 4 1
Lynch, Lieutenant R. B.	8 11 6
MacCarthy, Timothy.	0 9 4
Macdonald, Lieutenant J.	1 8 4
MacGregor, Lieutenant J. R.	1 18 10
Mackintosh, Lieutenant W.	2 11 0
Mackrill, Major T.	26 9 4
Maclaren, Captain J. S.	8 4 5
Mainwaring, Ensign J. C.	0 15 6
Marshall, Captain J.	13 12 6
Montgomerie, Captain P.	4 12 11
Morshhead, Lieutenant E.	0 9 2
Manning, Captain C.	8 9 3
Montgomerie, Captain P., Account Griffiths and Co.	31 4 0
Nichols, Colonel W.	0 9 9
Nichols, Captain J.	9 1 6
Orchard, Captain J.	3 7 9
Pollock, Ensign T. D.	9 0 2
Pratt, Major J. B.	71 11 10
Pringle, Captain D.	4 1 11
Pidge, Lieutenant George	0 14 0
Riley, Captain S. D.	22 4 8
Rocke, Lieutenant F. B.	0 14 11
Rowland, Lieutenant J. H.	16 1 9
Rowe, Captain J. W.	1 0 8
Ryley, John Gunner	0 10 8
Sanderson, Captain T.	8 12 0
Scott, Captain W. B.	29 8 8
Sherville, Ensign M. E.	0 15 10
Sherwood, Colonel J. D.	0 11 5
Smith, Colonel J. C.	1 1 2
Smith, Captain E.	43 12 1
Smith, Lieutenant M.	1 2 2
Steele, Major R. G.	11 5 9
Stewart, Ensign S. H.	2 6 5
Stiles, Ensign W.	1 1 0
Stoney, Serjeant A.	1 9 4
Smith, Captain James	1 10 9
Smith, Lieutenant E. F.	0 8 2
Taylor, Edward Artillery	0 14 1
Troup, Captain W. A.	0 14 9
Van, Zeyet Augtin	70 13 10
Wade, Corporal P.	6 6 10
Watkins, Captain W.	0 9 0
White, Lieutenant M. G.	1 13 2
Wilcox, Captain R.	2 11 9
Wilmer, Cort. W.	2 0 8
Watt, Lieutenant E.	2 12 7
Walker, Lieutenant T. C.	2 8 19
Ahmuty, John	2 10 2
Armstrong, James	6 0 0
Battye, G. W.	0 13 4
Bird, John	10 8 6
Braoke, Joseph	10 1 0
Cameron, N. S.	42 15 8
Chester, George	16 0 1
Chester, Account, Law	8 11 10
Crow, Nathaniel	0 9 11

Names of Creditors.	9th Dividend at 5 annas per Cent.			Names of Creditors.	9th Dividend at 5 annas per Cent.		
	Rs.	As.	P.		Rs.	As.	P.
Corsellis, George	...	0	10 7	DeCruz, P.	...	1	13 7
Elliott, H. M.	...	0	10 0	Dutchman, H.	...	2	6 0
Farquharson, J. H.	...	0	15 3	Charters, Mrs. E., (late Dick)	...	0	13 5
Garrett, W. N.	...	1	8 9	Doveton, Mrs. M. A.	...	19	12 7
Lang, A.	...	0	14 2	Durga Churn Chatterjee	...	2	12 7
Lang, J. W.	...	1	14 2	Davy and Robinson	...	0	14 0
Macfarlaw, D.	...	49	9 3	Decoba Kenrick	...	11	0 4
Massie, W. W.	...	15	5 8	Edwards, L. O.	...	32	1 2
Nisbitt, Hary	...	50	12 2	Hamton, Mrs. E., (late Elenck.)	...	3	15 8
Nisbitt, Josias	...	0	9 5	Erskine, Miss C.	...	1	15 4
Ogilvy, W.	...	37	2 9	Estate of Artrey, M.	...	2	15 3
Phillips, C. V.	...	82	8 10	Estate of Baptist, John	...	2	1 3
Pringle, J. A.	...	80	1 8	Estate of Chinger, Mrs. E.	...	13	12 10
Richard, Reverend T.	...	0	12 0	Estate of Fraser, Colonel A.	...	1	13 1
Salmon, W. O.	...	3	3 7	Estate of Gibon, A.	...	0	10 9
Stainforth, Henry	...	1	14 6	Estate of Hall, John	...	2	2 9
Swinton, Samuel	...	33	7 1	Estate of Hamilton, Captain J. J.	...	0	8 7
Smith, E. P.	...	10	10 0	Estate of Hay, Major J. J.	...	0	14 9
Shakespeare, G. F.	...	7	7 8	Estate of Imlay, J.	...	8	14 6
Valpy, W. H.	...	9	15 0	Estate of Macneagh, R.	...	6	13 10
Wright, W.	...	9	8 1	Estate of Middleton, W.	...	2	1 10
Campbell, A.	...	2	15 2	Estate of Nichols, George	...	3	1 2
Chalmers, A.	...	20	6 6	Estate of Paton, W.	...	0	13 4
Carruthers, P.	...	0	13 10	Estate of Roberts, C.	...	6	10 10
Findon, W.	...	37	12 5	Estate of Robinson, J. R.	...	0	12 6
Hart, T. B.	...	4	15 2	Estate of Seton, A.	...	31	9 7
Holmeo, S.	...	11	7 1	Estate of Stephens, Mrs. S.	...	60	9 7
Russel, Sir W., Account of Lushington	...	4	12 7	Estate of Weston, Major H.	...	4	4 2
Sheaw, R.	...	5	1 11	Estate of William Thomas	...	5	7 1
Smith, Alexander	...	2	13 11	Estate of Wood, Colonel S.	...	2	11 6
Twedie, Thomas, Senior	...	141	10 9	Finch, Miss E. A.	...	1	11 7
Tytler, John	...	135	14 9	Francis, Charles	...	6	2 1
Vos, J. R.	...	16	12 2	Fitz Paine, W.	...	0	9 9
Adam, John	...	1	2 1	Fitz Paine, Account Stricker	...	1	11 0
Agricultural Horticultural Society	...	0	14 0	Gibson, W.	...	40	0 3
Allan, R. D. D.	...	0	10 1	Gorden, Duff and Company	...	1	3 10
Baptist Mission Press	...	103	10 2	Gould, John	...	1	0 2
Beadle, Samuel	...	7	7 9	Gregory, Mrs. General	...	3	1 5
Beatson, Mrs.	...	74	9 0	Grase, John	...	8	10 2
Beatson, Miss Janet	...	27	8 0	Gee, W.	...	1	11 4
Blyth, Joseph	...	2	8 3	Hamilton, M., and Company	...	0	9 5
Bolton, Mrs. F.	...	19	6 1	Hart, Thomas	...	9	1 3
Bordie, K. S.	...	9	13 1	Hawkins, Account Livingston	...	0	8 7
Bregden and Garland	...	1	6 3	Hodgkinson, A.	...	2	4 11
Brunno, Anthony	...	1	10 6	Hollingberry, C. M.	...	15	10 0
Burney, Mrs. G.	...	2	6 0	Hollingberry, A. C.	...	2	5 3
Bashall and Company	...	1	1 1	Holmes, John	...	2	11 8
Crawford, Colvin and Comyany for	...	2	11 4	Home, R. Rasser	...	5	14 8
Bruce Bazett and Company	...	2	7 1	Howell, John	...	0	15 1
Baird, John	...	2	4 10	Hunter, James	...	2	11 3
Blitterman, J. H.	...	1	3 10	Hunter, John	...	16	5 7
Brownlie, Buchanan and Company	...	1	3 10	Haslam, Mrs. E.	...	3	7 7
Bucker and Mackintosh	...	2	13 6	Hurrepria Rance	...	0	10 10
Collie, John	...	1	2 9	Jones, Sain	...	8	1 0
Cronmelin, T. L.	...	2	6 7	Joy, Kissen Mookerjee	...	0	14 2
Crow, Mrs. M.	...	7	15 7	Pyle, Mrs. M., (late King)	...	1	10 10
Clark, Henry	...	67	15 4	King, Mrs. M.	...	7	4 8
Chanoo, Beebee	...	8	9 6	Kissen, Chunder Sircar	...	40	1 6
Cassee Nath Banerjee.	...	4	1 6	Kissen, Mohan Banerjee	...	7	10 6
Canningham, S. Van	...	0	10 4	Laplace, Madame	...	0	9 6
Cambell, D.	...	0	9 7	Lavery, Mrs.	...	0	11 3
Chocopan Chitty and Brothers	...	0	9 3	LeBriton Mrs. E.	...	12	10 2
Decamers, Mr. F.	...	1	15 0	Lindsay, James	...	21	1 7
D. La Clang, A.	...	2	6 10				

Names of Creditors.	9th Dividend at 5 annas per Cent.			Names of Creditors.	9th Dividend at 5 annas per Cent.				
	Rs.	As.	P.		Rs.	As.	P.		
Lyall, R.	...	0	9	3	Trust of Barrets, John, Bombay	...	3	8	10
Lamb, R.	...	1	9	8	Pensioners	...	0	15	0
Legnao and Colvin	...	1	7	11	Trust of Barington, Mrs.	...	0	8	2
Lwyson Mount	...	1	7	9	Trust of Beauhep, A. P.	...	0	11	7
Mac Ritchie, John	...	28	6	5	Trust of Blak, C. C.	...	2	8	6
Martyn, C. C.	...	11	14	5	Trust of Blunt, George, Children	...	1	0	1
Mercor, James	...	2	4	9	Trust of Browne, Mrs. E.	...	2	14	0
Meyer, George	...	1	3	8	Trust of Baptist, John, Children	...	2	14	7
Moore, Mrs. M.	...	19	0	11	Trust of Chapman, Children	...	2	14	7
Morrisson, C.	...	7	3	0	Trust of Chapman, James	...	20	1	7
Myers, C. S. & A. C.	...	2	1	5	Trust of Christee, Eliz	...	0	14	3
Malkin, Sir B.	...	0	12	0	Trust of Creighton, Mrs.	...	2	8	0
Mecabe and Strachan	...	1	12	11	Trust of Crommelin, J. D.	...	1	4	0
Mather, R.	...	0	9	4	Trust of Crommelin, Miss E. F.	...	2	0	3
Milin and Blenkenhozen	...	1	4	4	Trust of Crommelin, C. B., Children	...	14	2	11
Muttranot Bose	...	14	3	4	Trust of Curties, J., Children	...	6	11	4
Musslie Roy Bhool Chund	...	2	4	6	Trust of Cupons, C.	...	0	12	9
Muttra Beebee	...	65	4	5	Trust of Dado, Eliza	...	1	15	10
Scott, Mrs. C	...	16	6	3	Trust of Dunlop, Mrs. E.	...	25	0	2
Demonto, J.	...	6	11	0	Trust of Gibson, Mrs. S.	...	13	15	7
Smith, W.	...	7	10	5	Trust of Glegg, A. and D.	...	1	8	5
Nicholson, Mrs. M.	...	6	7	10	Trust of Gramshaw, S. B. and R.	...	1	11	9
Fraser, J. R.	...	6	7	2	Trust of Harper, Mrs.	...	3	6	11
Oakers, E.	...	2	5	9	Trust of Hollingberry, Mrs. M. A.	...	3	12	0
Page, Mrs. J.	...	2	1	11	Trust of Hollingberry, Mrs. H.	...	6	1	6
Park, John	...	2	1	1	Trust of Jones, H. D.	...	1	1	4
Peacock, W. A.	...	1	5	6	Trust of Jennings, C. R.	...	14	4	8
Pritchard, Gegorge	...	5	13	6	Trust of Jennings and Ruspine	...	3	12	5
Pringle, Miss Eliza	...	6	12	4	Trust of Johnson, E. T. S.	...	13	9	8
Parker, W.	...	1	1	9	Trust of Jones, S., and Family	...	7	4	8
Reene, T. C.	...	2	2	2	Trust of Leakes, Thomas, Children...	...	8	1	11
Ridge, James	...	4	15	9	Trust of Logie, Charlotte	...	4	3	4
Roberts, W.	...	17	15	6	Trust of Logie, Charles	...	3	7	4
Radamadub Banerjee	...	0	15	6	Trust of Logie, Marianne	...	2	14	3
Radamohun Chuckerbutty	...	5	11	3	Trust of Lowther, M. I.	...	24	14	2
Rajbullub Banerjee	...	4	1	4	Trust of Onieth, Miss Mary	...	2	2	2
Ram Comul Sein	...	15	0	2	Trust of Paterson, T. S.	...	16	10	2
Rosoollena, Account Nooruldeen	...	6	5	8	Trust of Robertson, R. and P.	...	24	11	5
Salman, W. P.	...	4	0	2	Trust of Robertson, J. and C.	...	7	13	4
Sandford, J. B.	...	1	3	1	Trust of Robinson, J. A.	...	11	2	2
Sandford, G. W.	...	1	3	1	Trust of Shaw, Mrs. M.	...	1	3	5
Scott, John	...	6	9	3	Trust of Shearwood, W. L.	...	4	10	7
Shearwood, George	...	26	2	2	Trust of Smith, E. C.	...	1	0	11
Shipton, Mrs. F.	...	1	4	8	Trust of Sark, H., Account Pensioner	...	32	13	8
Sampersaud Nundy, Raj: h	...	1	3	2	Trust of Stewart, Mrs. Anna	...	10	15	6
Smith, James, Mariner	...	4	1	4	Trust of Stewart, R., Children	...	3	0	9
Stacy, Mrs. M.	...	14	0	9	Trust of Stone, George	...	32	2	7
Stephens, Henry	...	3	7	11	Trust of Swintorn, John, Children	...	6	2	0
Brine, Mrs. E., (late Stewart)	...	4	4	0	Trust of Thomas, Captain, and Children	...	3	13	10
Stewart, W., Account Pensioner	...	3	9	11	Trust of Wilkinson, Charles Cars.	...	2	9	6
Stocker, Mrs. H.	...	13	0	4	Trust of Willoughby, Coll. Family	...	11	14	0
Subscription Account Mrs. Pauling	...	25	3	6	Voyle John	...	1	10	1
Stewart and Company, D.	...	1	10	11	Warner, J. E.	...	2	9	10
Shaw, Mrs. T. A.	...	0	8	2	Watson, Mrs. A.	...	2	15	11
Stone, George	...	0	8	9	Watson, Mrs. C.	...	2	3	3
Swarries, M.	...	1	4	10	Wetherill, J.	...	5	6	8
Sinclair, James	...	0	9	0	Whepshick, Amelia	...	10	13	9
Stewart and Robertson, S. A.	...	5	1	4	Williams, Mrs. M. N.	...	8	15	8
Stewart, H. T.	...	9	13	7	Wilson, Andrew	...	9	15	5
Tetly, Mrs. E.	...	0	12	4	Walfe, B. J.	...	2	6	3
Turton, Mrs. A. M.	...	13	4	1	Zugler, L.	...			
Tittle, George	...	3	6	6					
Tril and Company	...	0	12	7					
Thomas, W., Purneah	...	1	6	3					
Trust of Barnard, E.	...	13	6	3					

Calcutta,
The 20th April 1855,

John Cochrane,
Official Assignee.

CALCUTTA, } JOHN COCHRANE,
The 20th April 1855, } Official Assignee.

Notice.

In the matter of Rungolall Sett, of No. 7, Gourmohun Mookerjee's Street, in Simlah, in the Town of Calcutta, carrying on trade and business as a Dealer in Mule Twist in Cross Street in Burra Bazar, in Calcutta aforesaid, seeking the benefit of the Insolvent Act, and in this matter on the 27th day of March last, seeking the benefit of the Act for the Relief of Insolvent debtors at Calcutta in India, and that thereupon the vesting order made in this matter on the said 27th day of March last be set aside and possession may be given to the said Rungolall Sett of all the property vested in the Official Assignee.

GOODALL AND LESLIE,
Insolvent's Attorneys.

CALCUTTA,
The 24th April 1865.

Court for the Relief of Insolvent Debtors at Calcutta.

In the matter of Junmenjoy Dutt, of Pathooriaghatta, in Calcutta, formerly carried on trade and business at Fouzdaree Balakhanah as Box Dealers in partnership with Phooneeboosun Dutt and Peary Mohun Bose, deceased, under the style and Firm of Pearymohun Bose and Co., subsequently carried on trade and business as Box Dealers alone at Chitpore Road, Jorasanko, in Calcutta aforesaid, and at present serving as a Gomastah in the Firm of Tincourey Karforma, of Pathooriaghatta aforesaid, an Insolvent.

Insolvent in person.

In the matter of John Peter Langlois, lately carrying on business at Akyab, in the Province of Arracan, as a Merchant and Agent, under the style or Firm of J. Pierre Langlois and Co., and at present residing at the Great Eastern Hotel, Calcutta, an Insolvent.

Berners, Sanderson, and Fergusson, Attorneys.

On Tuesday, the 25th day of April instant, it was ordered that the matters of the petition of the said Insolvent be heard on Saturday, the 1st day of July next, and that the said Insolvent do then attend to be examined before the said Court.

On Wednesday, the 19th day of April instant, it was ordered that the matters of the petition of the said Insolvent be heard on Saturday, the 3rd day of June next, and that the said Insolvent do then attend to be examined before the said Court.

In the matter of Gocoldoss Soonderjee, late of Calcutta, heretofore, and up to the 17th day of April instant, carried on the trade or business as a Merchant and Commission Agent in Armenian Street, in Calcutta, aforesaid. On Monday, the 24th day of April instant, it was on the petition of Woomeschunder Mookerjee, Kadernauth Mookerjee, Ogornauth Mookerjee, and Rajendronauth Mookerjee, Creditors of the said Insolvent, adjudged that the said Gocoldoss Soonderjee hath committed an act of insolvency under the provisions of the Act XI. Vic., cap. XXI., and by another order of the same date the Estate and Effects of the said Insolvent were vested in the Official Assignee.

Carruthers, Attorney.

Chief Clerk's Office, the 25th April 1865.

In the matter of John Henry Bartlett, of No. 2, Beparritollah Lane, in Calcutta, late an Extra Preventive Officer in the Customs Preventive Service, and now out of employment, an Insolvent. Notice, that an application for an *ad interim* protection order has been this day made by the said Insolvent, and that such application will be heard and disposed of by the Acting Commissioner of the Insolvent Court on Monday, the 8th day of May instant, at the hour of 10 o'clock in the forenoon.

"Any Creditor of the said Insolvent desirous of opposing such application must appear before the said Court at the time and place aforesaid."

Insolvent in person.

In the matter of John Henry Bartlett, of No. 2, Beparritollah Lane, in Calcutta, late an Extra Preventive Officer in the Customs Preventive Service, and now out of employment, an Insolvent. On Friday, the 28th day of April last, it was ordered that the matters of the petition of the said Insolvent be heard on Saturday, the 1st day of July next, and that the said Insolvent do then attend to be examined before the said Court.

Insolvent in person.

In the matter of John Henry Bartlett, of No. 2, Beparritollah Lane, in Calcutta, late an Extra Preventive Officer in the Customs Preventive Service, and now out of employment, an Insolvent. Notice, that the petition of the said Insolvent seeking the benefit of the Act XI. Vic., cap. XXI., was filed in the Office of the Chief Clerk on the 28th day of April last, and by an order of the same date the Estate and Effects of the said Insolvent were vested in the Official Assignee.

Insolvent in person.

In the matter of Syud Mahomed, formerly of Sekunderabad, in Hyderabad, and at present in Armenian Burial Ground, in Calcutta, an Insolvent. On Monday, the 1st day of May instant, it was ordered that the matters of the petition of the said Insolvent be heard on Saturday, the 1st day of July next, and that the said Insolvent do then attend to be examined before the said Court.

Carapiet, Attorney.

In the matter of Syud Mahomed, formerly of Sekunderabad, in Hyderabad, and at present of Armenian Burial Ground, in Calcutta, Inhabitant, an Insolvent. Notice, that the petition of the said Insolvent seeking the benefit of the Act XI. Vic., cap. XXI., was filed in the Office of the Chief Clerk on the 1st day of May instant, and by an order of the same date the Estate and Effects of the said Insolvent were vested in the Official Assignee.

Carapiet, Attorney.

In the matter of Jugernauth Pandah, lately carrying on business as a Cloth Merchant at Puggyaputty, in Burra Bazar, in Calcutta, and now residing at Toolla Bazar, in Calcutta, an Insolvent. On Monday, the 1st day of May instant, it was ordered that the matters of the petition of the said Insolvent be heard on Saturday, the 1st day of July next, and that the said Insolvent do then attend to be examined before the said Court.

Rogers, Attorney.

In the matter of Jugernauth Pandah, lately carrying on business as a Cloth Merchant at Puggyaputty, in Burra Bazar, in Calcutta, and now residing at Toolla Bazar, in Calcutta, an Insolvent. Notice, that the petition of the said Insolvent seeking the benefit of the Act XI. Vic., cap. XXI., was filed in the Office of the Chief Clerk on the 1st day of May instant, and by an order of the same date the Estate and Effects of the said Insolvent were vested in the Official Assignee.

stant, and by an order of the same date the Estate and Effects of the said Insolvent were vested in the Official Assignee.

Rogers, Attorney.

Chief Clerk's Office, the 2nd May 1865.

Notice.

NOTICE is hereby given that the Interest and Responsibility of Mr. JOHN BORRADAILE in our Firm ceased on the 30th day of April last.

BORRADAILE, SCHILER & Co.

The 2nd May 1865.

Notice.

An Extraordinary General Meeting of the Shareholders of the Bengal Oil Company, "Limited," will be held in the registered Office of the Company, No. 2, Fairlie Place, on Friday, the 12th May next, at the hour of noon, to pass the Accounts up to 31st December last as audited; to elect Directors; to take into consideration the Financial position of the Company; to fix the Auditor's remuneration, and to receive and discuss the report of Messrs. Fuller, Ferris, and Young.

PURRIER & Co.,

Agents and Secretaries.

CALCUTTA,
The 24th April 1865.

Uncovenanted Service Family Pension Fund.

WIDOWS' FUND.

	Rs.	As.	P.
Amount at Credit of Reserve Fund according to Mr. Finlason's valuations as on 1st May 1864	4,84,138	0	0
Amount of interest upon Rupees 4,84,138, at 6 per cent. per annum	29,048	4	0
Balance at Credit of Interest Account, 30th April 1865	512	0	0
Estimated net divisible sum during the year 1865-66	29,560	4	0

which will admit of a Dividend of 31 per cent. in the monthly subscription of 375 Subscribers, who completed five years' consecutive payments below 30th April 1865.

CHILDREN'S FUND.

Amount of Credit of Reserve Fund according to Mr. Finlason's valuations as on 1st May 1864	2,98,088	0	0
Interest at 6 per cent. upon Rupees 2,98,083 for the year	17,884	15	0
Against this sum will have to be debited, to make up the deficit in the payment of one Subscriber, whose subscription is less than the rate laid down in the new tables of rates, as per Proposition 3 of Circular dated 15th December 1852	49	2	0
Estimate net divisible sum for the year 1865-66	17,835	18	0

which will admit of a Dividend of 36 per cent. in the monthly subscription of Subscribers, who completed five years' consecutive payments before the 30th April 1865.

Published by Order of the Directors,

R. C. TULLOH,
Secretary.

G. W. KELNER,
Accountant and Controller.

FUND OFFICE,
The 29th April 1865.

Bishnauth Tea Company, "Limited."

WE hereby give notice that the Second Call of Rupees 20 per Share on the new contributory Shares in this Company is due on the 1st of June next.

Shareholders are requested to pay the amount due on their Shares into the Bank of Hindustan, China, and Japan, "Limited," on or before the above date, and to send in their Scrip for endorsement accompanied by the Bank's Receipt for the amount of the said Call.

By Order of the Directors,
TURNER, MORRISON & Co.,
Secretaries.

The 18th April 1865.

Bishnauth Tea Company, "Limited."

WE beg to notify that the adjourned Third Half-yearly Ordinary General Meeting of Shareholders in this Company will be held at the registered Office, No. 1, Lyons' Range, on Thursday, the 4th of May next, at noon precisely, to receive the Directors' Report, pass the Accounts, and transact such other business as may be brought forward.

TURNER, MORRISON & Co.,
Secretaries.

The 18th April 1865.

**R. Scott Thomson and Company,
"Limited."**

THE Fourth Half-yearly Ordinary General Meeting of Shareholders will be held at the registered Office of the Company, S-1, Old Court House Corner, on Friday, the 12th May, at 12 o'clock noon, to receive the Accounts for the year ending 31st March, to declare a Dividend for the past half-year, and to transact any other business which may be brought forward.

By Orders of the Directors,
JAMES YOUNG,
Secretary.

CALCUTTA,
The 17th April 1865.

Equitable Coal Company, "Limited."

NOTICE is hereby given that an Extraordinary General Meeting of the Shareholders of this Company will be held at the Office, 7, Mission Row, on Thursday, the 25th day of May next, for the purpose of confirming the Resolutions passed at the Meeting of Shareholders held on 27th ultimo.

By Order of the Directors,
BEGG, DUNLOP & Co.,
Secretaries.

Muttuck Tea Company, "Limited."

WE beg to give notice that the adjourned Half-yearly Ordinary General Meeting of Shareholders in this Company will be held at the registered Office, No. 1, Lyons' Range, on Friday, the 19th of May, at noon precisely, to pass the Accounts and transact such other business as may be brought forward.

TURNER, MORRISON & Co.,
Secretaries.

The 19th April 1865.

Tirhoot Indigo Company, "Limited."

NOTICE is hereby given that an Extraordinary General Meeting of the Shareholders of the above Company will be held at the Office of the Company, No. 3, Church Lane, on Friday, the 30th day of June next, at noon, for the purpose of confirming the Resolutions passed by the Shareholders at the Third Half-yearly Ordinary Meeting held on the 31st March, and for transacting such other business as may be brought before the Meeting.

By Order of the Directors,
WILLIAM, MORAN & Co.,
Agents.

Labac Tea Company, "Limited."

NOTICE is hereby given that an Extraordinary General Meeting of the Shareholders of this Company will be held in the Office, 7, Mission Row, on Friday, the 26th day of May next, at 4 P. M., for the purpose of confirming the Resolutions passed at the Meeting of Shareholders held on 15th instant with reference to the sale of the Company's property.

By Order of the Directors,
BEGG, DUNLOP & Co.,
Secretaries.

Soom Tea Company, "Limited."

WE hereby give notice that the 12th Call of Rupees 10 per Share on the Shares in this Company is due on the 20th of May proximo.

Shareholders are requested to pay the amount due on their Shares into the Bank of Hindustan, China, and Japan, "Limited," on or before the abovementioned date, and to send in their Scrip to the undersigned for endorsement accompanied by the Bank's Receipt for the amount of the said Call.

By Order of the Directors,
TURNER, MORRISON & Co.,
Secretaries.

The 27th April 1865.

Notice.

By mutual consent of the undersigned MR. CHARLES ESTCOURT CRESSWELL retires from the Firm of WILLIAM MORAN & Co. from this day.

WILLIAM MORAN.
SAMUEL PRYCE GRIFFITHS.
CHARLES ESTCOURT CRESSWELL.

CALCUTTA,
The 30th April 1865.

Notice.

MR. EDWARD CREATON'S Interest and Responsibility in our Firm ceased on 30th April last.

MACKENZIE, LYALL & Co.
CALCUTTA,
The 1st May 1865.

Notice.

MR. ROBERT STEWART is this day admitted Partner in our Firm.

GLADSTONE, WYLLIE & Co.
CALCUTTA,
The 1st May 1865.

East India Timber Company, "Limited."

NOTICE.

ALL Claims against the abovenamed Company, the formation of which has been, for the present, postponed, are requested to be sent in to the Liquidator, care of C. Lazarus & Co., Cossitollah, Calcutta.

All Applicants for Shares in the Company who have paid in their deposits, either to the Bank or Liquidator, will have the same returned to them in full on application to the Liquidator (at the above address) on or before the 15th (May next) proximo.

By Order of the Directors,
J. W. TISBURY,
Liquidator.

CALCUTTA,
The 27th April 1865.

The Bengal Credit Mobilier, "Limited."

NOTICE is hereby given that, in accordance with the Articles of Association, an Extraordinary General Meeting of the Shareholders of the Company will be held at the Office, No. 6, Old Court House Street, on Friday next, the 5th instant, at noon, for the purpose of fixing the remuneration of the Directors and for the transacting of such other business as may be brought forward,

By Order of the Board,
J. J. COGSWELL,
Manager.

No. 6, OLD COURT HOUSE STREET;
Calcutta,
The 1st May 1865.

Notice.

THE Partnership heretofore existing under the Firm of PEEL, BELLAIES & Co., at Manchester and Calcutta, and PEEL, STEVENSON & Co., at Liverpool, terminated on the 31st December last.

CALCUTTA,
The 1st April 1865.

WITH reference to the above, the undersigned will continue the business as heretofore under the Firms of STEVENSON, PEEL & Co., at Manchester and Calcutta, and PEEL, STEVENSON, JACOB & Co., at Liverpool.

JOHN STEVENSON.
WESSLEY TYRRELL JACOB.
GEORGE HENRY PEEL.

MR. MARS ROSS is authorized to sign our Firm, per procuration, from this date.

STEVENSON, PEEL & Co.
The 1st April 1865.

Notice.

WE have admitted MR. THOMAS HENDERSON WORDIE a Partner in our Firm from this date.

JARDINE, SKINNER & Co.
CALCUTTA,
The 1st May 1865.

[In the Press, and will be published in a few days.]

REPORTS of MISSIONS to BOOTAN;

COMPRISING THOSE OF

THE HON'BLE ASHLEY EDEN,—1863-64;

CAPT. R. BOILEAU PEMBERTON,—1837-38,

INCLUDING THE

JOURNAL OF DR. W. GRIFFITHS;

AND THE ACCOUNT BY

BABOO KISHEN KANT BOSE,—1815-16.

With a colored Map of Bootan.

Price 5 Rupees.

Lost,

THE upper half of the Government Promissory Note, No. 10877 of 1854-55, of the Five per cent. Loan of 1854-55, dated the 12th March 1855, for Company's Rupees one thousand, originally standing in the name of D. Chisholm, and last endorsed to J. R. DeAbrew, the Proprietor, and standing in the name of the Proprietor, by whom it was never endorsed to any other person. Payment of the above Note and of Interest thereupon has been stopped at the Loan Office, and application is about to be made to Government for the issue of a Duplicate Note in favor of the Proprietor.

Lost,

THE First-half, for Rupees 20, No. $\frac{A}{10}$ 07399, and the Second-half Note, for Rupees 20, No. $\frac{A}{10}$ 28132.

GRINDLAY & Co.

Lost,

IN transit by Post between Darjeeling and Benares, Half of a Government Currency Note, No. $\frac{A}{3}$ 03416, for Rupees 20. Payment stopped at the Bank of Bengal.

Lost,

THE Second-halves of Government Currency Notes, No. $\frac{A}{3}$ 38430, for Rupees 100, and Nos. $\frac{A}{10}$ 16753 and 47854, for Rupees 50 each. Payment stopped at the Bank.

Lost,

FIRST-HALF of a Bank of Bengal Note, No. 03541F, for Rupees 100. Payment stopped at the Bank.

NOTICE issued by the POST-MASTER GENERAL of BENGAL.

No. 10292.

THE Public are informed that two experimental Post Offices have been opened at Manbazar and Jhaldia; their situations are given in the margin.

C. K. DOVE,
Post-Master General of Bengal.
CALCUTTA,
The 29th April 1865. }

NOTICES issued by the POST-MASTER of CALCUTTA.

No. 951.

The 26th April 1865.—The Overland Mail per Steamer *Bengal* will be closed on Monday, the 8th proximo.

Letters for Madras, Ceylon, the Straits, China, Mauritius, and Australia can be sent by this opportunity.

Postage.	Weight.	Via Marseilles.		Via Southampton.	
		Rs.		Rs.	
Under ½ Ounce		0	6	8	0
" 1 "		0	13	4	" 0 8 0
" 2 "		1	10	8	" 1 0 0

There will be no After-Packet.

No. 952.

The 28th April 1865.—Notice is hereby given that the Mails for Bombay, Madras, and Galle, for transmission per Steamer *Nada*, will be closed at this Office on Thursday, the 4th proximo, at 6 P. M.

No. 953.

The 28th April 1865.—Notice is hereby given that the Mails for Akyab and Chittagong, for transmission per Steamer *Moulmein*, will be closed at this Office on Friday, the 5th proximo, at 6 P. M.

No. 954.

The 28th April 1865.—Mail Packets for the Overland Mail which leaves Bombay on the 14th May 1865 will be closed at this Office at 6 P. M. each day as follows:—

Via Southampton on the 6th May 1865.

Via Marseilles on the 7th May 1865.

Letters and papers for transmission *via* Bombay will be received up to 6 P. M. on every day prior to the 6th and 7th May 1865, and Inland Postage to Bombay must be prepaid in Stamps on letters sent by this opportunity to places in Egypt and to countries in Foreign Europe *via* Trieste.

There will be no Express.

Rates of Postage.

	Via Southampton.			Via Marseilles.		
Under ½ Ounce	Rs.	0	4	9	Rs.	0
" 1 "	"	0	8	0	"	0
" 2 "	"	1	10	8	"	1
Book Post Packets <i>via</i> Marseilles not exceeding 4 ozs. and prepaid 5 annas may be forwarded by this opportunity.						

No. 955.

The 28th April 1865.—Notice is hereby given that the Mails for Rangoon, Moulmein, Penang, Malacca, and Singapore, for transmission per Steamer *Arabia*, will be closed at this Office on Saturday, the 6th proximo, at 6 P. M.

Memorandum shewing the Date and Hour of Arrival at the Calcutta Post Office of the Mails which left England on the 27th of March 1865, and the time occupied in sorting the Letters and Papers for delivery.

Name of the Steamer.	Date and Hour at which the Mail Steamer anchored at Garden Reach.	Hour at which the Mails arrived at the General Post Office.	Hour at which the Window Delivery commenced.	Hour at which the Peons left Office.	Delivery.	No. of Boxes of Letters.			No. of Boxes of News-Papers and Books.	
						Southampton.	Marseilles.	Total.	Southampton.	Total.
<i>Nemesis</i> ..	28th April 1865, at 6-15 P. M.	28th April 1865, at 7-15 P. M.	9-15 P. M.	29th April 1865, at 7 A. M.	2 P. M.	4	5	9	27	62
										9
									Total	71
									France	2 Boxes
									Madras	2 "
									Ceylon	1 "
									Singapore	1 "
									Hong-Kong	1 "
									Australia	3 "
									Ditto	9 Bags.
									Ditto	14 Pkts.
									Malta	1 Bag
									Alexandria	1 "
									Bombay	1 Pkt.
									Aden	1 "
									Gibraltar	1 "
									Suez	2 "
									Mauritius	1 "
									Bagdad	2 "
									Hong-Kong	1 "
									Total	115

The 2nd May 1865.



APPENDIX TO
The Calcutta Gazette.

WEDNESDAY, MAY 3, 1865.

Home Department.

LEGISLATIVE.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations, on the 13th April 1865. —

REPORT.

We, the undersigned, the Members of the Select Committee of the Council of the Governor-General of India for the purpose of making Laws and Regulations, to whom the Bill for consolidating and amending the Laws relating to the Procedure of the Courts of Civil Judicature in British India, together with the communications noted in the annexed list, was referred, have the honour to report as follows:—

We have carefully revised the Bill, and have adopted a large number of the suggestions contained in the communications above mentioned.

Before entering into the details of our revision we may premise that the alterations which we have made are to a great extent verbal, and that, with very few exceptions, they do not affect the general or fundamental principles of the Bill as introduced.

The most important alterations involving questions of principle are in the Sections relating to the specific performance of contracts, and in the part of the Code relating to Reviews of Judgments.

We have provided that specific performance shall not be decreed of any contract, the complete performance of which is necessarily extended over a longer period than five years. When any such

contract shall have been entered into before the passing of the Act, we propose that specific performance shall not be decreed for more than five years from the date of the decree.

We have altered Sections 131, 132, 133, 134 and 135(a), and confined their operation to suits brought to enforce the specific performance of registered contracts. For the procedure to enforce the *ex parte* order given under Section 133, we have provided that, on proof of service of the order, the Court shall receive the plaintiff's evidence, and, subject to certain conditions, pass a decree for specific performance. The conditions prescribed are these:—that the consideration is adequate; that the contract is reasonably certain; that the defendant is able to perform it, and that the performance will not impose extreme or immoderate hardship upon him. We have thus, we trust, met the objections of those who fear that the power of enforcing specific performance of contracts by the attachment of the property and the imprisonment of the party guilty of the breach of contract, may be used as an instrument of oppression. We have enabled the Court to decree damages in the event of the contract not being specifically performed, and provided for the execution of the decree.

The power given to the Judges of the subordinate Courts of reviewing, of their own authority, orders passed not only by themselves but by their predecessors, or by Judges for whom they are merely officiating, has, we understand, led to considerable abuse, and the Committee are strongly of opinion that the opportunity for this abuse should be taken away.

Under the Code as it now stands, many orders passed in execution of a decree are not open to appeal. It has been suggested that in such cases

(a) The numbers in this Report refer to those of the Sections of the Bill as introduced and published in the *Gazette of India* for 29th April 1864.

either an appeal or a review of judgment should be allowed.

We have thought it better to adopt the latter alternative, subject to the proviso, which we propose should extend generally to reviews, that, when the review is granted by a Court subordinate to a District Court, it shall be with the previous sanction of such Court, and that, when granted by a District Court, it shall be with the previous sanction of the High Court.

We have armed the Civil Courts with power to punish witnesses for failing to attend when summoned, instead of leaving the cases of persons so offending to be dealt with by the Criminal Courts. The necessity for this provision in order to the due administration of justice has been strongly pressed by many Judges, some of them of long standing and of considerable experience.

We have introduced several changes in the Chapter relating to the High Courts, and exempted those Courts from the operation of some Sections, which, however well adapted to Courts in the Mofussil, have been found unnecessary and, in some instances, inconvenient in the High Courts with their superior judicial agency.

We will now specify some of the minor additions and alterations which we have thought necessary.

We have added definitions of 'Person,' 'Section,' 'Chapter,' 'Law,' 'Judgment,' 'Decree,' 'Immovable Property,' 'Movable Property,' 'Bond,' 'Document,' and 'Subordinate Court.'

We have inserted a clause analogous to Section 3 of the Bill as introduced, providing that the Sections to which the letters 'R. C.' are affixed, shall extend to Revenue Courts.

We have provided that every person shall be entitled to sue except persons expressly prohibited from suing by any law. Executors and administrators, trustees of express trusts, and next friends of lunatics and idiots may, on obtaining the permission of the Court, sue without joining with them the persons for whose benefit the suit is brought. Infants will sue by guardian or next friend, who will be admitted and may be removed by the Court, and who may be made liable for the costs of the suit. We have also provided that an infant defendant shall appear by guardian.

To Section 10 we have added explanations after the manner of the Indian Penal Code and the Indian Succession Act, 1865, as to the place in which a cause of action may be held to have arisen: as to the dwelling necessary to give jurisdiction: as to the place in which a Corporation or Company shall be deemed to carry on business; and as to the business contemplated in the Section. To Section 61 we have added an explanation of what shall be considered to constitute residence out of British India. We have also given explanations as to the adequacy of consideration and the certainty required for enforcing specific performance of a contract.

We have introduced Sections declaratory of the tribunal in which suits not for immovable property, shall be brought against the Secretary of State, the Government of India and the local Governments.

We have provided for the subscription and verification of the plaint in suits by Government or the Secretary of State.

We have extended Section 24 (as to declaratory suits) so as to enable the Court to make declarations of future rights, and to empower a trustee to obtain a declaration of the respective rights of the persons interested in a trust-estate. We have provided that no Court shall make any declaratory decree or order unless it could, if required, act upon it by giving consequential relief.

The extension of Railway communication has induced us to add to Section 73 a second exception to the rule that no party resident more than fifty miles from the Court shall be ordered to appear in person. We have provided that if Railway communication exist between the place where the party reside and the place where the Court is held, or within a convenient distance from such places, the Court shall have a discretion as to making such order. A similar addition has been made to Section 280.

On the issue of a Summons for final disposal, the parties will be required to produce their witnesses on the day fixed for hearing the suit; and we have provided a procedure where the Court cannot give judgment at the first hearing.

When the defendants are partners, and the suit relates to a partnership transaction, service on one defendant for himself and the others will be sufficient.

When the defendant fails to comply with an order under Section 113 to give security for his appearance, we have provided by express words that the Court may commit him to Jail.

We have added a clause to Section 120, providing that the Court, if satisfied of the plaintiff's inability to furnish the specification and valuation required by that Section, may dispense therewith.

We have provided that an award of compensation for arrest or attachment on insufficient grounds, or for the needless issue of an injunction, shall be executed like a decree for money.

A Notice to produce documents when served on a party to a suit will, if the Court shall so order, have the force of a Summons.

We have altered Section 163, so as to enable the Court, when the defendant fails to appear, to dispense with strict proof of the service of the Summons; and we have provided that, if the Summons shall have been issued for the final disposal of the suit, the Court, if satisfied of the justice of the plaintiff's claim, may proceed to pass a decree in his favour *ex parte*. The written declaration

(mentioned in Section 173) in support of the cause shown for failure to appear will now be on stamp-paper where a stamp is required for petitions.

As a preliminary to setting aside a decree *ex parte* in a suit involving a claim to money, we have considered it right to require the amount with costs to be paid into Court.

We have provided that, in the case of any party failing to present a written statement called for under Section 183, the Court may pass a decree against him, or make such order in relation to the suit as it may deem proper.

In order to bring the Code into harmony with the Stamp Act (X of 1862, Section 15) we have made the penalty payable on the reception of unstamped or insufficiently stamped documents treble, instead of double, the amount of the stamp duty or additional stamp duty which it should have borne.

We have added a proviso to Section 217 that when the hearing of evidence shall have once begun, the hearing of the suit shall not be adjourned at the application of any of the parties, except from day to day, when all the witnesses cannot be examined on the same day. Great encouragement has been given to perjury and subornation of perjury, and other serious irregularities have arisen, in consequence of the facility hitherto enjoyed of obtaining adjournments, especially in the hearing of evidence.

We have provided a procedure where cases, in which a District Court shall have given an opinion under Section 245 on the law of the religion or of the established customs of the parties, shall come on appeal before such Court.

We have made provision in Section 266 for the Judge's temporary inability to take down evidence as required in that Section.

We have empowered the Court to appoint any Government Officer with the consent of his immediate superior to be a Commissioner to make a local investigation.

We have provided a procedure *ex parte* when the parties do not appear before the Commissioner.

As to costs, we have provided that, at the time of disposing of any application, the Court may award to either party the costs of such application, or reserve the consideration of such costs for any future stage of the proceedings. We have further empowered the Court to set-off costs payable to one party by another against a sum which the former shall admit to be due from him to the latter. We have also provided that the Court may give interest on costs at six per cent., and direct that costs, with or without interest, be made a charge on the subject-matter of the suit. In case of the plaintiff's bankruptcy or insolvency, we have provided that the Court may award the defendant's costs to be recovered out of the plaintiff's estate; and, where the plaintiff withdraws from the suit

without permission, he will be liable for such costs as the Court shall award. We have given the Courts power, in rejecting a written statement and on re-admitting an appeal dismissed for default, to impose terms as to costs or otherwise.

We have by express words empowered the Courts to appoint the Assessors mentioned in Sections 298 and 299, and we have thought it inexpedient to require that the opinions of the Assessors shall always be given orally.

We have empowered the Court, with the consent of the parties, to put any of them or any other person on his oath or affirmation, and to decide the suit on the statement made under that sanction.

We have provided that, if the judgment in suits in which a regular appeal is not allowed be written in English, it shall not be necessary to translate it, unless any of the parties require a translation. In like manner the judgment of the Appellate Court need not be translated unless any party shall so require.

The judgment of a Court of Small Causes will not be required to give the reasons for the decision.

We have provided for the execution and, if necessary, the alteration of the conveyance or endorsement tendered under Section 327. We have also provided for the case of the Judge agreeing to a conveyance going beyond the terms of the decree, or refusing to agree to a conveyance in conformity with those terms.

A warrant for arrest of the defendant will direct the serving officer to bring him before the Court.

In Sections 369 and 400 we have authorized the immediate sale of perishable commodities.

Where there is a mortgage or lien on the attached property, we have provided that the attachment shall continue subject to the claim of the mortgagee or person entitled to the lien.

If the decree-holder purchase at an execution sale, we have provided that the amount of his decree may be taken in payment, in whole or in part, as the case may be.

As regards the enforcement of registered Bonds, we have provided that the obligee of a bond payable by instalments may sue before all the instalments shall have become due. We have also provided that the representative of a deceased obligor may plead that he never received any assets, or that they have been paid away, or that they are insufficient.

In Section 512 we have added to the grounds of setting aside an award—either party having fraudulently concealed any matter which he ought to have disclosed, or having wilfully misled or deceived the arbitrators or umpire. The Section

as it stood provided for setting aside an award on the ground of misconduct, only when a charge of such misconduct was established against the arbitrators or umpire. As observed by the Madras Government, this renders such charges more frequent than they would otherwise be, and the probability of being exposed to them makes respectable men unwilling to arbitrate.

We have given a regular appeal in respect of costs alone, provided that it shall appear upon the face of the decree or order that the Court below proceeded upon a mistake or misapprehension.

We propose that on appeal the Courts should be required, of their own motion, to take cognizance of defences founded on lapse of time, breach of the Stamp laws or want of jurisdiction.

A respondent taking objection to the original decree from which he may have preferred no cross-appeal, will have to give seven days' notice in writing of such objection.

We have added to the grounds of special appeal, failure by a subordinate Court to determine an issue of law or usage having the force of law, and error in the opinion given by the District Court on a question of religious law or established usage or custom.

The Advocate's certificate endorsed on the application for a special appeal or for a review of judgment, will be required to specify by their numbers which of the grounds he considers well founded and sufficient.

We have given the High Court power to call for the record of any case decided by a Court of Small Causes, or, on appeal, by any subordinate Court, in which no appeal shall lie to the High Court, if such Small Cause Court, or such subordinate Court, on hearing the appeal, shall appear to have exercised a jurisdiction not vested in it by law.

We have omitted the Section empowering the Courts to return the stamp duty paid on an application for review.

In the Chapter on High Courts, we have omitted the provision contained in Section 639 as to

suits against the representative of a deceased person on a cause of action which accrued against the deceased in his life-time. We have also omitted Section 632 as unnecessary.

In a Division Court, if the Judges shall be equally divided, the opinion of the Senior Judge will prevail.

We have extended the power of reference given by Section 640, so as to enable the matter to be investigated by the Registrar or other proper Officer of the High Court, and we have declared that any act not of a judicial nature which the Code requires to be done by a Judge, may be done by the Registrar, or such other Officer as the Court may direct.

We have declared that in suits coming before the High Courts in the exercise of their ordinary original jurisdiction, Attornies may obtain and serve summonses.

We have provided that nothing in the eighth Section shall debar the High Court or any Judge of the High Court from rescinding or modifying any interlocutory order passed by it or him in the course of a suit.

We have for reasons already given exempted the High Court from the operation of Sections 26, 27, 28, 29, and 34.

Lastly, we have empowered the Governor-General in Council to invest the chief Executive Officer of any part of British India under the immediate administration of the Government of India, with the powers vested by the Code in a Local Government.

We recommend that this Report and the Bill as amended be published in the Official Gazette.

H. B. HARRINGTON.
H. L. ANDERSON.
J. N. BULLEN.
G. N. TAYLOR.
RAJÁ SHIB DYÁI, BAHÁDUR.
W. MUIR.
R. N. CUST.

The 10th April 1865.

From Chief Secy. to Govt., Fort St. George, No. 904, dated 10th June 1863.

From Registrar, High Court, Madras, No. 14, dated 16th January 1863.

Remarks of Sir Colley Harman Scotland, Chief Justice.

From Secy. to Chief Commr., Oude, No. 2775, dated 4th December 1863.

Observations by Sir Colley Harman Scotland and Sir Adam Bittleston.

Minute by Mr. Justice Norman, Officiating Chief Justice.

From Secy. to Chief Commr., Central Provinces, No. 3754, dated 29th August 1864.

From Judicial Commr., Central Provinces, No. 2030, dated 29th July 1864.

From Secy. to Govt. of India, Foreign Dept., No. 282, dated 5th September 1864.

From R. G. Keene, Esq., No. 41, dated 3rd September 1864.

From ditto ditto, No. 42, dated 3rd September 1864.

Remarks by J. W. Mirfield, Esq., Solicitor, Calcutta, dated 21st October 1864.

Constructions of the late Sudder Court and Appellate branch of the High Court, Madras, from the date on which the Code came into operation to the 31st December 1862.

Supplemental statement of decisions of the High Court at Madras, Original side, from the 16th August to the 31st December 1862.

Rulings of the High Court, Madras, both in its original and appellate jurisdiction, during the year 1863.

Rulings of the Sadr Dáwlat Adálat, N. W. P., from the passing of the Act to the close of the year 1862.

Rulings of ditto ditto from the enactment of Act VIII of 1859 to the end of the year 1862.

Rulings of ditto ditto in cases in which there was a difference of opinion among the Judges of the Courts.

Rulings of ditto ditto consequent on doubts in regard to the construction of particular Sections, entertained by subordinate Courts.

- Rulings of the Court of Nizamat Adalat, N. W. P., in cases in which the construction put by the lower Court on any point is set aside by the Sadr Court.
- Rulings of the Court of Sadr Diwani Adalat, N. W. P., during the months of July to December 1863.
- Rulings of ditto ditto during the second half of 1863.
- Rulings of ditto ditto in cases in which there was a difference of opinion among the Judges of the Court on points of construction.
- Minute by Mr. Justice Seton-Karr, dated 24th August 1864.
- Minute by Mr. Justice Campbell, dated 10th September 1864.
- Extract, paragraphs 13 to 27, from the Annual Report of the Civil Judge of Lucknow for the year 1861.
- Rules for trial by Jury in the City of Lucknow.
- From Judicial Commr., Oude, No. 96, dated 5th July 1861.
- From ditto ditto, Oude, No. 121, dated 14th February 1861.
- From Civil Judge of Lucknow, No. 87, dated 21st March 1861.
- From Judicial Commissioner, Oude, No. 291, dated 23rd April 1861.
- Extract from the Report on the administration of justice in Oude in 1861.
- Minute by Mr. Justice Levinge, dated 21st September 1864.
- Memorandum by Mr. Justice Glover, dated 15th August 1864.
- From Officiating Under Secy. to Govt., N. W. P., No. 197 A, dated 26th June 1863.
- From Register, Sadr Court, N. W. P., No. 947 A, dated 31st May 1863.
- From Officiating Secy. to Chief Commr., Oude, No. 2721, dated 27th October 1864.
- From Settlement Commr., Oude, No. 3789, dated 11th August 1864.
- Memorandum by the Supdt. of Excise and Stamps, Oude, on Sections 193 to 196, dated 15th August 1864.
- From Officiating Judicial Commr., Oude, No. 516, dated 21st October 1864.
- Minute by the Assistant Civil Judge, Lucknow, dated 11th October 1864.
- Memorandum by Extra Assistant Commr., Oude, dated 22nd July 1864.
- From Officiating Deputy Commr., Fyzabad Division, No. 280, dated 29th July 1864.
- Memorandum by W. Oldham, Esq., Officiating Deputy Commr., Fyzabad, dated 12th August 1864.
- Report by Lieut. A. H. Eckford, Assistant Commr., dated 30th August 1864.
- Notes by E. G. Fraser, Esq., Civil Judge of Lucknow, dated 23rd September 1864.
- Minute by Mr. Justice Bayley, dated 1st November 1864.
- Note by Mr. Justice Phear.
- Remarks and suggestions of the Sadr Court, N. W. P., dated 15th November 1864.
- Additional supplemental Note by Mr. Justice Levinge, dated 19th November 1864.
- Additional Note by Mr. Justice Levinge, dated 6th December 1864.
- From Commr. of Lucknow, No. 1167, dated 26th October 1864.
- Memorandum by Officiating Deputy Commr., Lucknow, No. 515, dated 27th October 1864.
- Notes by F. L. Beaumont, Esq., Judge of the 24-Pergunnahs, dated 22nd November 1864.
- Notes by Principal Sadr Amin: 24-Pergunnahs.
- Remarks by Officiating Deputy Commr. of Durrabad, dated 20th November 1864.
- Extract of letter from Commr., Khyrabad Division, No. 185, dated 21st November 1864.
- Notes by Settlement Officer, Durrabad, dated 22nd November 1864.
- Memorandum by Extra Assistant Commr., Oude, dated 28th November 1864.
- Brief remarks by Vishvanath Narayan Mandlik, Pleader. High Court, Bombay, dated 13th October 1864.
- From Judge of Tipperah, No. 380, dated 10th November 1864.
- From 1st Principal Sadr Amin, 24-Pergunnahs, dated 17th October 1864.
- From Principal Sadr Amin, Bardwan, dated 10th November 1864.
- From Principal Sadr Amin, Behar, dated 11th November 1864.
- From Sadr Amin of Moorsshedabad, dated 27th October 1864.
- From Judge of the Small Cause Court, Hooghly, No. 28, dated 29th October 1864.
- From Principal Sadr Amin, Chittagong, dated 17th November 1864.
- From Officiating Judge of Bhagulpore, No. 245, dated 16th November 1864.
- From Sadr Amin of Bhagulpore, dated 16th November 1864.
- From Secretary to Govt., N. W. Provinces, No. 268 A, dated 5th December 1864.
- From Registrar, Sadr Diwani Adalat, N. W. Provinces, No. 2057, dated 15th November 1864.
- Abstract of replies to N. W. P. Courts' Circular Letter, No. 15, dated 28th July 1864.
- Remarks by the Chief Commissioner, British Burmah, dated 3rd December 1864.
- From Chief Commissioner, British Burmah, dated 6th December 1864.
- From Commissioner, Tenasserim Division, No. 689, dated 3rd December 1864.
- From Assistant Commissioner, Moulmein, dated 28th July 1864.
- From Assistant Commissioner, Konkara Sub-Division, dated 16th August 1864.
- Comments by the Deputy Commissioner of Tavoy, dated 27th August 1864.
- Remarks and suggestions by the Deputy Commissioner of Mergui, dated 22nd October 1864.
- From Secretary to Govt., Punjab, No. 986, dated 5th December 1864.
- Opinion of the Munsif of Syedpoor, Zillah Ghazee-poor.
- From Munsif of Motcharee, dated 28th November 1864.
- From Munsif of Kishengunge, dated 29th November 1864.
- From Judicial Commr., Chota Nagpore, No. 41, dated 29th November 1864.
- From Sadr Amin of Midnapore, dated 1st December 1864.
- From Pandit Sri Kishen, Munserim, Roy Bareilly.
- From Assistant Commr., Roy Bareilly, dated 25th August 1864.
- Remarks by Officiating Deputy Commr., Roy Bareilly, dated 8th December 1864.
- Opinion of the Advocate General, Madras.
- From Secy. to Govt. of Punjab and its Dependencies, No. 986, dated 5th December 1864.
- General remarks by P. S. Melvill, Esq., Commr. of Umritsur.
- General remarks by Colonel Lake, Commr., Jullundeh.
- From Secretary to Board of Revenue, No. 5669, dated 1st September 1864.
- From Acting Registrar, High Court, No. 66, dated 15th November 1864.
- Further Observations in addition to those of the Chief Justice, Madras, and Sir Adam Bittleston, previously forwarded.
- From Acting Civil Judge of Madura, No. 206, dated 29th July 1864.
- From Judge of the Court of Small Causes, Negapatam, No. 139, dated 2nd August 1864.
- From Civil Judge of Ootacamund, No. 151, dated 13th August 1864.
- From Judge of the Court of Small Causes, Madura, No. 59, dated 3rd September 1864.
- From Acting Judge of the Small Cause Court of Tanjore, No. 214, dated 22nd September 1864.
- From Civil Judge, Salem, No. 13, dated 29th September 1864.
- Remarks and suggestions of the District Munsif of Tripattur.
- From Civil Judge, Calicut, No. 402, dated 11th November 1864.
- Remarks and suggestions of Principal Sadr Amin of Calicut.
- From Civil Judge of Tanjore, No. 1144, dated 12th November 1864.
- Remarks by the Judge of Tanjore.
- Remarks and suggestions of the Principal Sadr Amin of Tanjore, dated 10th September 1864.
- Notes by the Officiating Additional Principal Sadr Amin, Tanjore, dated 20th September 1864.
- From District Munsif of Munargudi, No. 107, dated 11th September 1864.
- From Civil Judge of Nellore, No. 64, dated 14th November 1864.
- From Acting Principal Sadr Amin of Salem, No. 27, dated 19th November 1864.
- From Acting Civil Judge of Rajahmundry, No. 357, dated 18th November 1864.
- Remarks by Acting Civil Judge of Rajahmundry, dated 18th November 1864.
- From Civil and Sessions Judge of Mangalore, No. M. D., dated 22nd November 1864.
- Memorandum by District Munsif of Teekally, Ganjam, dated November 1864.
- Memorandum by District Munsif of Aska, dated 18th October 1864.
- From Acting Civil Judge, Chicacole, No. 453, dated 24th November 1864.

- Opinion of District Munsif of Berhampur, dated 21st November 1864.
 From Judge of the Court of Small Causes, Masulipatam, No. 339, dated 29th November 1864.
 From Civil Judge of Chingleput, No. 172, dated 30th November 1864.
 From District Munsif of Cunchi, dated 11th November 1864.
 Observations of the District Munsif of Tripasoor, dated 8th November 1864.
 From Acting Civil Judge of Chicacole, No. 473, dated 6th December 1864.
 Opinion of the District Munsif of Chicacole, dated 5th December 1864.
 Additional Memorandum by the Munsif of Buxar, dated 7th November 1864.
 From Principal Sadr Amin of Bhaugulpoor, No. 28, dated 14th December 1864.
 From Registrar, High Court, No. 3606, dated 21st December 1864.
 Minute by Mr. Justice Norman.
 Resolution of the High Court, Calcutta, dated 3rd December 1864.
 Minute by Mr. Justice Morgan, dated 2nd December 1864.
 From Deputy Commr., Mohumdee, No. 402, dated 19th December 1864.
 From Sir Joseph Arnould, Judge of High Court, Bombay, No. 27, dated 13th August 1864.
 From Mr. Justice Newton, High Court, Bombay, dated 13th December 1864.
 Memorandum by Commr. of Sind, dated 17th August 1864.
 From Acting Judge, Canara, No. 1123, dated 30th August 1864.
 From Principal Sadr Amin of Sircy, dated 22nd August 1864.
 From Munsif of Yellapoor, dated 17th August 1864.
 From Acting Judge, Sholapoor, No. 1307, dated 16th November 1864.
 From Munsif of Sholapoor, dated 6th September 1864.
 From Civil Judge, Vizagapatam, No. 337, dated 20th December 1864.
 From Acting Judge of Chittoor Court of Small Causes at Vellore, No. 223, dated 23rd December 1864.
 From Civil Judge of Vizagapatam, dated 26th December 1864.
 Remarks by District Munsif of Vizagapatam.
 Report by the Judges of the High Court, Madras.
 From Secy. to Govt., Punjab, No. 55, dated 11th January 1865.
 From Judicial Commr., Punjab, No. 373, dated 8th August 1863.
 Rulings of the Court of Sadr Diwani Adalat, N. W. P., during the first six months of 1864.
 Rulings of ditto ditto during the first six months of 1864.
 From Sadr Amin of 24-Pergunnahs, dated 5th December 1864.
 Remarks by Acting Civil Judge of Bellary, dated 27th January 1865.
 Remarks and suggestions by District Munsif of Purghee in the Zillah of Bellary, dated 11th August 1864.
 Notes by District Munsif of Bimlipatam, dated 25th January 1865.
 From Under-Secy. to Govt., Bombay, No. 211, dated 26th January 1865.
 From Registrar, High Court, Bombay, No. 1350, dated 15th December 1864.
 From Judge of Dharwar, No. 1504, dated 3rd December 1864.

THE CODE OF CIVIL PROCEDURE.

ARRANGEMENT OF CHAPTERS AND SECTIONS.

CHAPTER I.

PRELIMINARY.

Section.

1. Short Title.
2. Interpretation Clause.
3. Sections of the Code extending to Small Cause Courts and Revenue Courts.
4. Enactments and Rules repealed.

CHAPTER II.

OF THE JURISDICTION OF THE COURTS,

5. Courts to try all civil suits unless specially barred.
6. Court not to try suit in which matter at issue has been heard and determined between same parties.
7. Appeals, revisions and new trials to be according to rules of Code.
8. No person exempt from jurisdiction by reason of descent or place of birth.
9. Persons entitled to sue.
Suits by personal representatives, Trustees of express trusts, next friends of Lunatics or Idiots, Guardians or next friends of Infants.
10. Jurisdiction of Courts.
11. Suits against Government.
12. Suits against Secretary of State.
13. Court in which suit to be instituted.
14. Transfer of suits.
15. High Court may transfer suits and appeals.
16. Suit to include the whole claim.
Relinquishment of part of claim.
17. Joinder of several claims in the same suit.
18. Court may in certain cases order separate trials of such claims.
19. Claims for immovable property and for mesne profits may be deemed to be founded on distinct causes of action.
20. Suits for immovable property situate in single District, but within jurisdictions of different Courts.
21. Suits for immovable property situate in different Districts.

Section.

22. Suits for immovable property situate in Districts subject to different High Courts.
23. Suit for immovable property situate on border of local jurisdiction of the Court and alleged by defendant to be within another local jurisdiction.
24. Suit for specific performance of one act in case of contract to perform separate or successive acts.
25. Specific performance of contract requiring for complete performance more than five years.
26. Declaratory suit.

CHAPTER III.

GENERAL RULES.

27. Appearances, acts and applications may be in person, by recognized agent or by Advocate.
28. Each of several plaintiffs or defendants may authorize any other to appear, plead and act for him.
Authority to be in writing, signed and filed.
29. Recognized agents.
1st.—Persons holding powers of attorney from parties out of jurisdiction.
2nd.—Persons carrying on trade or business for parties out of jurisdiction.
3rd.—Persons authorized to act for Government.
4th.—Persons specially appointed by Government to prosecute or defend a suit for any Prince or Chief.
5th.—Persons specially authorized by infirm persons to appear, sue, or defend.
6th.—Persons specially authorized to act for women exempt from appearing.
30. Service of process on recognized agent.
31. Appointment of Advocate.
32. Service of process on Advocate.
33. Service of process on a party who has not appointed an Advocate to act for him.
34. Agent to receive process.
His appointment to be in writing and to be filed in Court.
35. Agent of Government to receive process.
36. If there be no Government Advocate specially appointed.

37. Officers or Soldiers who cannot obtain leave may authorize any person to sue or defend for them.
Authority to be in writing, countersigned by Commanding Officer, and filed.
38. The person so authorized may act personally or appoint an Advocate.
39. Service on person so authorized, or on his Advocate, to be good service.
40. Suits by and against Infants.

Exemption from Personal Appearance.

41. Exemption of certain women from personal appearance.
42. Local Government may exempt certain persons from personal appearance.
43. List of names of persons exempted to be kept in the District Court.

Service of Process.

44. Proof of due service and delivery of process sent by post.
45. Process to be served at expense of party issuing it.
Costs of service of process.
46. Payment of cost of summons.
47. Service within limits of local jurisdiction of High Courts, of process issued by Courts without those limits.
48. Examination to be on oath or affirmation.
49. Court may order any document to be impounded.
50. When security is required a deposit may be made instead.
51. Punishment for verifying false plaint, statement, or declaration.
52. On disposal of applications Court may either award costs or reserve their consideration.

CHAPTER IV.

OF A SUIT TILL DECREE.

Of the Institution of Suits.

53. Suits to be commenced by plaint containing certain particulars.
54. Plaint to be subscribed and verified.
55. In case of plaintiff's inability to subscribe and verify the plaint.
56. In suits by Government or Secretary of State.
57. In suits by a Corporation or Company.
58. Cases in which the plaint may be rejected or amended.
59. Cases in which the plaint shall be returned to be presented in the proper Court.
60. Cases in which the plaint shall be rejected.
61. Procedure where there are several defendants, some of whom dwell without the jurisdiction.
62. When rejection of plaint does not preclude presentation of fresh plaint.
63. When security for costs is to be furnished by plaintiff at the time of presenting the plaint.
64. When security for costs may be required from the plaintiff at any stage of suit.
65. Procedure in a suit for immovable property in different jurisdictions.
66. When the plaint is admissible, particulars to be entered in the Register.
Form of the Register.
67. Written document on which plaintiff sues, if in his own possession or power, to be produced when plaint is presented.
And copy filed with plaint.
If plaintiff wish, original may be filed instead of copy.
List of other documents relied on to be entered at foot of plaint.
68. Shop-book, &c., to be produced.
69. Original document to be marked and returned.
70. Document not produced when plaint filed inadmissible in evidence without leave of Court.
71. Procedure to compel production of document in possession of defendant.

Of summoning the Defendant.

Section.

72. On plaint being registered, summons to issue to defendant to appear and answer on a specified day.
73. Court may order defendant or plaintiff to appear in person.
74. Court may order personal appearance of a Director, Secretary or other Officer in suits against a Corporation or Company.
75. No party to be ordered to appear in person unless resident within 50 miles.
Or within the local jurisdiction of the Court.
Or unless there be railway communication.
76. Summons to be either to settle issues, or for final disposal.
77. In cases cognizable in Small Cause Courts, summons to be for final disposal.
78. Fixing day for appearance of defendant.
79. Summons to appear and answer shall order defendant to produce documents required by plaintiff or relied on by defendant.
80. On issue of summons for final disposal, parties to be directed to produce their witnesses.
81. Form of summons.

Service of Summons on the Defendant.

82. Summons shall be served by Officer of Court.
83. Mode of service.
84. When there are several defendants.
Where they are partners.
85. Service to be on defendant in person, when practicable, or on duly empowered agent.
86. Service on agent by whom defendant carries on business.
87. If defendant cannot be found and has no agent, service may be made on a male member of his family.
88. Person served to endorse the summons.
Service sufficient though copy not affixed.
89. If the summons cannot be served, copy to be fixed on house.
90. If defendant do not dwell in place mentioned, summons to be returned with endorsement of non-service.
Service in place within local limits other than that mentioned.
91. Endorsement of time and manner of service.
92. When summons is returned unserved, Court to order substituted service if satisfied that defendant is avoiding service.
93. Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.
94. Service of summons on defendant in jail.
95. Procedure if jail be in a different district.
96. Service of summons when defendant resides out of British India and has no agent to accept service.
97. Service through a British Resident or Agent of Government.
98. Time for appearance under Sections 96 and 97.
In case of non-appearance of defendant, Court may direct suit to proceed subject to conditions.
99. In suits for immovable property, service on agent in charge.
100. Service on Government servants.
101. Service on Officers and Soldiers.
102. Service on a Corporation or Company.
103. Substitution of letter for summons.
104. Mode of sending such letter.

Of Suits against Government and Public Officers.

105. Service on Government Advocate.
106. Appearance and answer by Secretary of State or Government.
107. In suits against Government Officers for alleged official acts, summons to be served on them as provided in Section 100.
108. Court may grant extension of time to enable officer to make reference to Government.
109. If Government undertake defence, Government Advocate to appear and apply that note of his appearance be entered in Register.

Section.

110. If no such application made, case to proceed as in suit between private parties. But defendant not liable to arrest before judgment.
111. Exemption of Government Officers from personal appearance.

Of making Persons not before the Court Parties to a Suit.

112. Court may direct that persons appearing to be interested in a suit shall be made parties and may cause notices to be served on them.

Of Arrest before Judgment.

113. In suits for movable property, when defendant is about to leave the jurisdiction, &c., plaintiff may apply that security be taken.
114. Order to bring up defendant to show cause why he should not give security.
115. If defendant fail to show cause, Court may order him to make deposit or give security.
116. Procedure where defendant fails to do so.
117. Procedure in case of application by surety to be discharged.
118. Defendant to be imprisoned if he cannot give security.
119. Compensation where defendant arrested or suit instituted on insufficient grounds. Limit to compensation. Compensation to bar suit for damages.
120. When defendant is about to leave India, similar application for security may be made.

Of Attachment before Judgment.

121. Application before judgment for security from defendant to fulfil decree, and in default, for attachment of his property.
122. Contents of application and declaration.
123. Court may call on defendant to furnish security or show cause.
124. Attachment if cause not shown or security not furnished.
125. Withdrawal of attachment.
126. Mode of making attachment.
127. Investigation of claims to property attached before judgment.
128. Removal of attachment when security furnished.
129. Compensation for obtaining attachment or instituting suit on insufficient grounds. Limit to compensation.
130. Attachment not to affect rights of strangers or bar decree-holder from applying for sale.
131. Court may stay sale of property already under attachment, when execution of a decree fraudulently obtained is applied for.
132. Case in which party may be put in immediate possession of land the subject of suit.

Of ex parte Orders to perform a Contract.

133. *Ex parte* order for specific performance of registered contract.
134. Enforcement of order.

Of Injunctions.

135. Cases in which an injunction to stay waste may be granted.
136. Before granting injunction, Court may direct notice to be given to opposite party.
137. Receiver or manager of immovable property.
138. When the Collector may be appointed receiver.
139. Injunction to restrain commission, repetition or continuance of breach.
140. Order for injunction may be discharged, varied or set aside.
141. Compensation to defendant for issue of injunction or institution of suit on insufficient grounds. Limit to compensation.
142. Execution of award of compensation.

Of the Withdrawal and Adjustment of Suits.

143. Court may allow plaintiff to withdraw from a suit, with liberty to bring a fresh suit.

Section.

144. Law as to limitation of actions not affected by the first suit.
145. Compromise of suits.
146. Court may grant certificate for refund of half stamp duty on plaint if suit be adjusted. Proviso.

Of the Death, Marriage, and Bankruptcy or Insolvency of Parties.

147. No abatement by party's death if cause of action survive.
148. Procedure in case of death of one of several plaintiffs or defendants, if cause of action survive.
149. Procedure in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.
150. Procedure where no application made by representative of deceased plaintiff.
151. Procedure in case of death of sole, or sole surviving, plaintiff.
152. Abatement where no application by representative of deceased plaintiff.
153. Procedure in case of dispute as to representation of deceased plaintiff.
154. Procedure in case of death of one of several defendants, or of sole, or sole surviving, defendant.
155. Suit not abated by marriage of female party.
156. Plaintiff's bankruptcy or insolvency not to abate suit unless Assignee refuse to proceed and give security for costs.

Of Notices to produce Documents.

157. Notice to produce documents. When served, may have force of summons.

Of the Appearance of the Parties and Consequence of Non-appearance.

158. Parties to appear on day fixed in summons for defendant to appear and answer.
159. Dismissal of suit where summons not served in consequence of plaintiff's failure to deposit costs of issuing it. Unless defendant shall have entered appearance.
160. If neither party appear, suit to be dismissed.
161. In such case plaintiff may bring fresh suit. Or Court may issue fresh summons.
162. Procedure if plaintiff only appear. If summons issued for final disposal, decree *ex parte* may be passed.
163. If defendant appear on day of adjourned hearing, and assign good cause for previous non-appearance, he may be heard.
164. If plaintiff only appear, and due service of summons be not proved, Court may order issue of second summons.
165. If plaintiff only appear, and it be proved that summons was served, but not in due time, Court may adjourn hearing and direct notice to be given to defendant.
166. If defendant only appear, Court to make decree by default against plaintiff, unless defendant admit claim.
167. Bar of fresh suit by decree against plaintiff by default.
168. Procedure in case of non-attendance of one or more of several plaintiffs.
169. Procedure in case of non-attendance of one or more of several defendants.
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AMENDED BILL.

A Bill for consolidating and amending the Laws relating to the Procedure of the Courts of Civil Judicature in British India.

Whereas it is expedient to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature in British India; It is enacted as follows:—

CHAPTER I. PRELIMINARY.

Short title. **1.** This Act shall be cited as "The Code of Civil Procedure."

2. In this Code, unless there be something repugnant in the subject or context—

Interpretation Clause.

Words importing the singular number include the plural, and words importing the plural number include the singular.

Gender. Words importing the masculine gender include females.

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Chapter" and "Section." "Chapter" and "Section" respectively mean a Chapter and Section of this Code.

"Law" means any law or rule having the force of law for the time being in operation.

"British India" denotes the Territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better government of India."

"Court" denotes any Judge acting judicially alone, and any body of Judges acting judicially as a body, lawfully exercising jurisdiction in Civil cases.

"District" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction, and includes the local limits of the ordinary original Civil jurisdiction of a High Court.

"Subordinate Court." "Subordinate Court" means any Court subordinate to a High Court.

"District Court" means the principal Civil Court of original jurisdiction in a District.

"Judge" denotes the presiding Judicial Officer in a Court of Civil Judicature, and includes an acting Judge.

"Collector" denotes every Officer performing the duties of Collector of Land Revenue.

"Advocate" includes every person having by law the right to appear and plead, or appear, plead and act in any suit, appeal or miscellaneous proceeding.

"Proper Officer" means the person whose duty it is by law or any rule made by a High Court to attend to the particular matter indicated.

"Defendant" includes every person against whom a decree or order is passed or who is liable under a decree or order.

"Process" includes all summonses, notices, proclamations, warrants, writs and letters issued or sent under any of the provisions of this Code.

"Suit" means a suit instituted by a plaintiff under Section 53, up to and including the decree of the Court of first instance.

"Miscellaneous case" means any Civil case or proceeding not being a suit, and includes the proceeding in the execution of a decree.

"Regular Appeal" means an appeal from a decree passed in a suit, or from an order in a suit from which a regular appeal is allowed.

"Special Appeal" means an appeal from a decree passed or made in regular appeal.

"Appeal" means an appeal from an order passed in a suit from which an appeal is allowed, or from an order passed in a miscellaneous case.

"Judgment." "Judgment" denotes the grounds on which an order or decision is founded.

"Decree" means the order or decision by which a suit or regular or special appeal is determined so far as concerns the Court which passes the order or decision, and includes the judgment upon which the order or decision is founded. An order on regular or special appeal, remanding a suit for re-trial, is not within this definition.

"Costs" denotes the costs of all regular and necessary proceedings of either party in the suit, and includes such incidental costs as are or are directed to be costs in the suit. The costs of all interlocutory proceedings, unless the Court otherwise direct, are costs in the suit within this definition.

"Immovable Property" includes land, incorporeal tenements, and things attached to the earth or permanently fastened to any thing which is attached to the earth.

"Movable Property" means property of every description except immovable property.

"Bond." "Bond" includes any written obligation for the payment of money.

"Document" denotes any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, in-

tended to be used, or which may be used, in evidence of that matter.

"Jail" means the Civil Jail of the District, or any place appointed by the Local Government for the confinement of persons under Civil process.

"Year" and "Month" respectively denote a year and month reckoned according to the British Calendar.

In any part of British India in which this Code operates, "Government" includes the Government of India as well as the Local Government of such part.

"Local Government" means the person authorized to administer the executive government in such part, or the chief executive Officer of such part when it is under the immediate administration of the Governor-General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Code in a Local Government.

"High Court" denotes the highest Civil Court of Appeal in such part. (S. C. C. & R. C.)

3. The Sections having the letters S. C. C. affixed to them in a parenthesis, extend (so far as they apply or are applicable) to Courts of Small Causes. The other Sections do not extend to such Courts. The Sections having the letters "R. C." affixed to them in a parenthesis, extend (so far as they apply or are applicable) to Revenue Courts required by any law to regulate their proceedings by this Code. The other Sections do not extend to such Courts.

4. The enactments described in Schedule A annexed to this Code, and all rules relating to Civil Procedure and having the force of law in any part of British India to which this Code extends, are hereby repealed, except so far as they repeal any other enactment or rule. (S. C. C. & R. C.)

CHAPTER II.

OF THE JURISDICTION OF THE COURTS.

5. The Courts shall try all suits of a Civil nature excepting suits of which their cognizance is barred by law. (S. C. C. & R. C.)

6. The Courts shall not try any suit in which the matter in issue shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties, or between parties under whom they or any of them claim; nor any suit in which such matter is also in issue in another suit between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court. (S. C. C. & R. C.)

7. The decrees and orders of the Courts shall not be open to appeal or revision, nor shall a new trial be granted, otherwise than under the rules contained in this Code or any other law. (S. C. C. & R. C.)

8. No person shall, by reason of his descent or place of birth, be in any Civil proceeding exempted from the jurisdiction of any of the Courts. (S. C. C. & R. C.)

9. Every person shall be entitled to sue except persons expressly prohibited from suing by any law. An Executor or Administrator, a trustee of an express trust, a guardian or next friend of an infant, or the next friend of a lunatic or idiot, may, with the permission of the Court, sue without joining with him the person for whose benefit the suit is brought. (S. C. C. & R. C.)

10. Subject to the pecuniary or other limitations prescribed by any law, the Courts of each grade shall try all suits cognizable by them, if in the case of suits for immovable property the property be situate, and if, in all other cases, the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits of the jurisdiction of the Court.

Explanations.—(a) The cause of action may be deemed to have arisen where a contract was made, or where it was to be fulfilled, or where any material act in connection therewith was to be done.

(b) Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(c) A Corporation or Company shall be deemed to carry on business at its sole or principal Office, or at any place where it has also a subordinate Office in respect of any cause of action arising at such place.

(d) The business contemplated in this Section must be carried on at some fixed place for at least a certain time. (S. C. C.)

11. Suits against the Local Government, or the Government of India, not being suits for immovable property, shall be brought in the Court having jurisdiction at the place which is the seat of such Government and competent in respect of the amount or value of the subject of the suit to try the same. (S. C. C.)

12. Suits against the Secretary of State, not being suits for immovable property, shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose, and competent in respect of the amount or value of the subject of the suit to try the same. (S. C. C.)

13. Every suit shall be instituted in the Court of the lowest grade competent to try it where no option as to the selection of the Court is allowed by this Code or any other law. (S. C. C. & R. C.)

14. The District Court may withdraw any suit instituted in any Court subordinate to such District Court, and try the suit itself, or transfer it for trial to any other such subordinate Court competent in respect of the amount or value of the subject of the suit to try the same.

15. The High Court may order that the cognizance of any suit or appeal instituted in any subordinate Court other than a Court of Small Causes, shall be transferred to any other subordinate Court, not being a Court of Small Causes, competent in respect of the amount or value of the subject of the suit or appeal to try the same.

16. Every suit shall include the whole of the claim arising out of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim, a suit for the portion so relinquished or omitted shall not afterwards be entertained. (S. C. C. & R. C.)

17. Two or more claims founded on distinct causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided that in respect of the amount or value of the subject-matter in suit, the entire claim does not exceed the jurisdiction of the Court, and, where a stamp is required, is covered by the stamp on which the plaint is written. (S. C. C. & R. C.)

18. If two or more claims founded on distinct causes of action be joined in one suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may, at any stage of the suit, order such claims, or any of them, to be tried separately on the record as made up. (S. C. C. & R. C.)

19. A claim for immovable property and a claim for the mesne profits of such property may be deemed to be founded on distinct causes of action within the meaning of the last two preceding Sections.

20. If the suit be for immovable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which

the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.

21. If the immovable property be situate within the limits of different Districts, the suit may be brought in any Court, otherwise competent to try it, within whose jurisdiction any portion of the property is situate. In such case the Court in which the suit is brought shall apply to the High Court for authority to proceed with the same. If the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which such Court is subordinate. The High Court after hearing the objections, if any, of the defendant, may grant such authority.

22. If the Districts within the limits of which the immovable property is situate, are subject to different High Courts, the application shall be submitted to the High Court to which the District in which the suit is brought is subordinate; and such High Court may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

23. If in a suit for immovable property situate on the border of the local limits of the jurisdiction of the Court, the defendant object to the hearing of the suit on the ground that the property is not situate within such limits, the Court shall have power to determine the point; and if the Court shall find that the property is situate within such limits, it shall proceed to try the suit.

24. If a contract shall have been entered into which involves for its performance separate or successive acts, a suit may be brought to enforce the performance of any one or more of such acts, without waiting for the time when the whole of the acts required to be performed under the contract ought to have been performed; and the Court may order the defendant specifically to perform any one or more of such acts without ordering him specifically to perform the entire contract, imposing such terms, if any, upon the plaintiff as shall seem to the Court to be just. (S. C. C.)

25. The Court shall not decree the specific performance of any contract the complete performance of which is necessarily extended over a longer period than five years. This rule shall not apply to any contract which shall have been entered into before the passing of this Act: Provided that the Court shall not decree the specific performance of any such contract for a longer period than five years from the date of the decree. (S. C. C.)

26. No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby; and it shall be lawful

Declaratory suit.

for the Courts to make binding declarations of right, whether present or future, without granting consequential relief: Provided that no Court shall make any such decree or order unless it could, if required, act upon it by giving consequential relief. A trustee may institute a suit to obtain a declaration of the respective rights of the persons interested in the trust estate.

CHAPTER III.

GENERAL RULES.

27. Any appearance, act or application in or to any Court, made or done by a party to a suit in such Court, may, except when otherwise expressly provided by this Code, be made or done by the party in person or by his recognized agent, or by an Advocate duly appointed to act on his behalf: Provided that any such appearance shall be made by the party in person if the Court shall so direct. (S. C. C. & R. C.)

28. When there are more plaintiffs than one, any one or more of them may be authorized to appear, plead and act for any other of them: and in like manner when there are more defendants than one, any one or more of them may appear, plead and act for any other of them: Provided that the authority shall be in writing signed by the parties giving it, and shall be filed in Court. (S. C. C. & R. C.)

29. The recognized agents of parties by whom such appearances, acts and applications may be made or done are—

1st—Persons holding general powers of attorney from parties not within the jurisdiction of the District Court within the limits of which the appearance or application is made, authorizing them to make and do such appearances, acts and applications on behalf of such parties.

2ndly—Persons carrying on trade or business for and in the names of parties not within the jurisdiction of the District Court within the limits of which the appearance, act or application is made or done in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, acts and applications.

3rdly—Persons being *ex-officio* or otherwise authorized to act for Government in respect of any judicial proceeding.

4thly—Persons specially appointed by an order of Government, at the request of any Sovereign Prince or independent Chief, whether residing within or without British India, to prosecute or defend a suit on his behalf.

5thly—Persons holding special powers of attorney from parties who by reason of bodily infirmity are unable without risk or serious inconvenience to attend the Court in person, authorizing them to appear, sue, or defend in a particular suit.

6thly—Persons holding special powers of attorney from women exempt under Section 41 from appearing in Court authorizing them to appear, sue or defend in a particular suit. (S. C. C. & R. C.)

30. Processes served on a recognized agent relative to a suit shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct. The provisions of this Code relative to the service of process on a party to a suit shall be applicable to the service of process on such recognized agent. (S. C. C. & R. C.)

31. The appointment of an Advocate to make or do any appearance, act or application as aforesaid shall be in writing under the hand of the client and shall be filed in Court. When so filed, it shall be considered to be in full force until revoked by a writing filed in Court, or until the Advocate dies or the suit is determined. (S. C. C. & R. C.)

32. Processes served on the Advocate of any party or left at the office or ordinary residence of such Advocate, relative to a suit, and whether the same be for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the Advocate represents; and, unless the Court shall otherwise direct, shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person. (S. C. C. & R. C.)

33. In all cases in which a party to a suit has not appointed an Advocate to act for him, all processes shall be served upon such party in the manner hereinafter provided for the service of a summons upon a defendant to appear and answer. (S. C. C. & R. C.)

34. Besides the recognized agents described in Section 29, any person residing within the jurisdiction of the Court may be appointed an agent to receive processes. The appointment of such agent shall be in writing, signed by the principal, and the original appointment, or a copy thereof if the appointment be a general one, shall be filed in Court. (S. C. C. & R. C.)

35. The person appointed to act as Advocate on the part of Government in any Court, shall be accounted the agent of the Government for the purpose of receiving processes against the Government or the Secretary of State for India, issuing out of the Court in which such person may be the Advocate of Government. (S. C. C. & R. C.)

36. The person appointed to act as Advocate on the part of Government in any District Court shall, for the purpose of the last preceding Section, be considered the Advocate of Government in any Court in such District in which no person shall have been specially appointed Advocate on the part of Government in such Court. Processes issued by a Court to the Government Advocate of another Court may be forwarded to him by post. (S. C. C. & R. C.)

37. When any Officer or Soldier in the Military Service of the Government is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead. The authority shall be in writing and shall be signed by the Officer or Soldier in the presence of his Commanding Officer or of the next subordinate Officer, if the party be himself the Commanding Officer. Such Commanding or other Officer shall countersign the authority, which shall be filed in Court. When so filed, the countersignature of the Commanding Officer or of the next subordinate Officer, as the case may be, shall be sufficient proof that the authority was duly executed, and that the Officer or Soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person. (S. C. C. & R. C.)

38. Any person who shall be authorized by an Officer or Soldier to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person in the same manner as the Officer or Soldier could do if present; or he may appoint an Advocate to prosecute or defend the suit on behalf of such Officer or Soldier. (S. C. C. & R. C.)

39. Processes served upon any person who shall have been authorized by an Officer or Soldier, as in the last preceding Section mentioned, or upon any Advocate who shall be appointed as aforesaid by such person to act for or on behalf of such Officer or Soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person or on an Advocate appointed by him. (S. C. C. & R. C.)

40. An infant shall sue by guardian or next friend, who shall be admitted and may be removed by the Court and shall be liable for the costs of the suit. An infant shall be sued by guardian who shall be admitted and may be removed by the Court.

EXEMPTION FROM PERSONAL APPEARANCE.

41. Women, who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court. (S. C. C. & R. C.)

42. The local Government may, at its discretion, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. (S. C. C. & R. C.)

43. The names of the persons exempted under the last preceding Section from personal appearance in Court, residing within the jurisdiction of the District Court, shall from time to time be forwarded to such Court by the local Government, and a list of such persons shall be kept in such Court and in the several subordinate Courts of the District. (S. C. C. & R. C.)

SERVICE OF PROCESS.

44. Wherever this Code provides that any notice, summons, letter or other communication may be sent to the person to whom it is addressed by post, proof of due service and delivery of process sent by post, that the same was correctly addressed to such person at his place of residence, and that it was posted and registered according to any law for the management of the Post Office shall, in the absence of evidence to the contrary, be sufficient proof of the due service and delivery of the notice, summons, letter or other communication. (S. C. C. & R. C.)

45. Every process required to be issued under this Code, shall be served at the expense of the party at whose instance it is issued, unless the Court shall otherwise direct. The sum required to defray the costs of such service shall be paid into Court before the process is issued, within a period to be fixed by the Court issuing the process. Postage, where chargeable on any notice, summons, letter or other communication forwarded by post and the fee for registering the same shall be costs required to be paid as aforesaid within the meaning of this Section. In fixing the costs to be paid for service of process, regard shall be had to any law or to any rules issued by the High Court for fixing the amount of such costs. (S. C. C. & R. C.)

46. Whenever any person not a party to the suit, shall be summoned to give evidence or to produce any document in a suit otherwise than on the application of a party to the suit, the cost of summoning such person, including his travelling and other expenses, if not deposited by any party to the suit, shall (if the Court shall so direct) be paid by the Collector of the District, and shall be costs in the suit, and shall be paid out of any money recovered on account of costs in the suit whether at the instance of the Government or of any of the parties to the suit, before any other costs in the suit are paid. (S. C. C. & R. C.)

47. Whenever any process issued by any Court established beyond the limits of local jurisdiction of High Courts, of process issued by Courts without those limits. the process is to be served, or to any Court other than the High Court which may now exist or which may hereafter be established with jurisdiction within the same local limits, and shall be executed by such Court of Small Causes or other Court in the same manner as if such process had been issued by such Court of Small Causes or other Court, and, after having been so executed, shall be returned to the Court by which it was issued. The delivery of the process to the Court required to execute the same, and its return to the Court by which the process was issued, may be by an Officer of the Court which issued the process, or by post.

48. The examination of the parties to a suit or other proceeding when authorized under this Code, and the evidence of witnesses or other persons shall be upon oath or affirmation or otherwise according to the provisions of any law for the examination of witnesses. (S. C. C. & R. C.)

49. The Court may, if it see sufficient cause, direct any written document produced in Court in any suit to be impounded and kept in the custody of an Officer of the Court, for such period and subject to such conditions as to the Court shall seem fit. (S. C. C. & R. C.)

50. When security is required to be furnished by any person, the Court may permit such person to deposit a sum of money, Government Promissory Notes, or other valuable property to such amount as the Court may fix, in lieu of the security. required (S. C. C. & R. C.)

51. If any plaint, written statement, or declaration in writing required by this Code to be verified, shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provisions of the law for the punishment of giving or fabricating false evidence. (S. C. C. & R. C.)

52. At the time of disposing of any application made under any provision of this Code, the Court may award to either party the costs of such application, or may reserve the consideration of such costs for any future stage of the proceedings.

CHAPTER IV. OF A SUIT TILL DECREE. OF THE INSTITUTION OF SUITS.

53. Every suit shall be commenced by a plaint which shall contain the following particulars:—

- 1.—The name, description, and place of abode of the plaintiff.
- 2.—The name, description, and place of abode of the defendant, so far as they can be ascertained.
- 3.—The relief sought for, the subject of the claim, the cause of action, and where and when it accrued; and, if the cause of action accrued beyond the period ordinarily allowed by any law for commencing such a suit, the ground upon which exemption from the law is claimed.

The following are instances:—

If the suit be for money due on a bond:—Payment of Rupees
due on a bond for the sum of Rupees
bearing date the day of 186
and payable on the day of 186
namely,—

Principal ...	... Rupees
Interest at the rate of	
per cent. ...	... Rupees
Amount paid (if any) ...	... Rupees
Balance due ...	... Rupees

If the suit be for the amount due on a bill of exchange drawn by the plaintiff and accepted by the defendant,—

Payment of Rupees being the amount of a bill of exchange for the sum of Rupees now overdue, drawn by the plaintiff on the day of 186 and accepted by the defendant, with interest thereon at per cent. till payment.

If the suit be for the price of goods sold:—

Payment of Rupees on account of maunds of (rice, indigo, sugar, or as the case may be) sold on the day of , and the price of which became payable on the day of as per account at foot.

If the suit be for money due on an account:—

Payment of Rupees due [or being the balance due] to the plaintiff on the following account.

To [here state the debit side of the account] ... Rupees
Cr.

By [here state the credit side in respect of payments and set-off, if any] Rupees

Balance due ... Rupees

If the suit be for money payable for work done and materials provided:—

Payment of Rupees for [builder's, carpenter's, joiner's, plasterer's, or mason's, or as the case may be] work done at the premises in and for materials thereon provided between the of 186 and the of 186.

If the suit be for damages for any injury done :—
 Payment of Rupees on account of
 injury done to the plaintiff.

[Here set out the nature of the injury, and the time at which it was inflicted, and state the particulars of the pecuniary loss (if any)].

If the plaintiff claim exemption from any law of limitation, say—"The plaintiff was an infant (or as the case may be) from the day of 186 to the day of .

4.—When the claim is for any property other than money, its value estimated according to law.

The following is an instance :—

If the suit be for an estate or for a share in an estate paying revenue to Government :—Possession of the estate (or of share in the estate) called , situate in the District of , the Government Revenue assessed on which is Rupees (or the estimated value of which is Rupees) of which the plaintiff was dispossessed (or forcibly or fraudulently dispossessed, if the case be so), on the day of 186 ; (or to which plaintiff became entitled by inheritance from or, by gift, purchase, or otherwise, as the case may be), on or about the day of 186 .

5.—When the claim is for land or for any interest in land, the nature of the tenure or interest shall be specified ; and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In suits by or against the Secretary of State for India, or the Government, or one of its Officers in his official capacity, or any Corporation or Company authorized to sue and be sued in the name of an Officer or of a Trustee, the words "The Secretary of State for India," "The Government," or "The Collector of " (or otherwise as the case may be), or the name of the Corporation, or the name of the Officer or Trustee of the Company shall be inserted in Nos. 1 and 2 instead of the name and description of the plaintiff or defendant. But in every other suit it shall be necessary to specify the names of all the parties. (S. C. C. & R. C.)

54. The plaintiff shall be subscribed by the plaintiff and his Advocate (if any), and shall be verified at the foot by the plaintiff in the manner following, or to the like effect :—

I (A. B.) the plaintiff named in the above plaint do declare that what is stated therein is true to the best of my information and belief. (S. C. C. & R. C.)

55. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on his behalf by any person whom the Court may consider competent to make the verification. (S. C. C. & R. C.)

56. In suits by the Government or the Secretary of State for India, it shall be sufficient if the plaint be subscribed and verified by the Government Advocate of the Court in which the suit is brought, or, where there is no such Advocate, by the Advocate by whom the plaint is filed. (S. C. C. & R. C.)

57. In suits by a Corporation or a Company authorized to sue and be sued in the name of an Officer or of a Trustee, the plaint may be subscribed and verified on behalf of the Corporation or Company by any Director, Secretary, or other principal Officer of the Corporation or Company who is able to depose to the facts of the case. (S. C. C. & R. C.)

58. The plaint may, at the discretion of the Court, and at any time before the decree is passed, be rejected, returned for amendment within a time to be fixed by the Court, or amended then and there, upon such terms as to the payment of costs occasioned by the amendment as the Court shall think fit—

(1.) If it do not state correctly and without prolixity the several particulars hereinbefore required to be specified therein :

(2.) If it contain any particulars other than those so required :

(3.) If it be not subscribed and verified as hereinbefore required :

(4.) If it do not disclose a cause of action ; or

(5.) If the cause of action appear from the statement in the plaint to be barred by lapse of time. (S. C. C. & R. C.)

59. The plaint shall be returned to be presented to the proper Court in the following cases :—

(1.) If a suit shall have been instituted in a Court whose grade is lower or higher than that of the Court, competent to try it where such Court exists, or where no option as to the selection of the Court shall be allowed by law.

(2.) If in a suit relating to immovable property, it appear that no part of such property is situate within the local limits of the Court.

(3.) If in a suit relating to immovable property, it appear that such property has been adjudged by competent authority to be situate within the local limits of the jurisdiction of another Court.

(4.) If in any other case it appear that the cause of action did not arise and that none of the defendants are dwelling or carrying on business or personally working for gain within the local limits of the jurisdiction of the Court. (S. C. C. & R. C.)

60. The plaint shall be rejected in the following cases :—

(1.) If the claim is undervalued and the plaintiff, on being required by the Court to correct the

valuation within a time to be fixed by the Court, shall fail to do so.

(2.) If the claim is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp paper, within a time to be fixed by the Court, shall fail to do so.

(3.) If in the case mentioned in Section 63, the plaintiff fail to furnish security for the payment of the costs that may be incurred by the defendants. (S. C. C. & R. C.)

61. If in any suit there are more defendants than one, and at the date of the institution of the suit any of the defendants shall not dwell within the local limits of the jurisdiction of the Court in which the suit is brought, but one or more of the defendants shall dwell within such limits, the suit shall not be ejected as against the defendant or defendants so dwelling, by reason of any of the defendants not dwelling within the local limits of the jurisdiction of the Court. (S. C. C. & R. C.)

62. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action, if not barred by the law of limitations. (S. C. C. & R. C.)

63. When the plaintiff ordinarily dwells out of British India, and does not possess any sufficient immovable property within British India independent of the property in suit, he shall, on presenting the plaint or within such time as the Court shall order, furnish security for the payment of the costs that may be incurred by the defendant. (S. C. C.)

64. If at any subsequent stage of a suit it shall appear to the Court that a sole plaintiff is, or that all the plaintiffs (when there are more plaintiffs than one) are, residing out of British India, and such plaintiff or plaintiffs shall not possess any sufficient immovable property within British India independent of the property in suit, the Court may order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by the defendant. In the event of such security not being furnished within the time so fixed, the Court shall pass a decree against the plaintiff or plaintiffs by default, unless he or they be permitted to withdraw from the suit under the provisions of Section 143.

Explanation.—A person is considered to be resident out of British India, within the meaning of the last two preceding Sections, who leaves British India for a purpose which is likely to keep him abroad for such a length of time that there is no reasonable probability that he will be forthcoming when he may be called upon to pay the costs incurred by the defendant in the suit. (S. C. C.)

65. If the suit be for immovable property situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court, the Court shall proceed according to the rules contained in Section 20, Section 21, or Section 22, as the case may be.

66. If the Court consider the plaint admissible, the particulars mentioned in Section 53 shall be entered in a book to be kept for the purpose, and called the Register of Civil suits. The entries shall be numbered in every year according to the order in which the plaint is presented. The Register shall be kept in the form contained in the Schedule B annexed to this Code. (S. C. C. & R. C.)

67. If a plaintiff sue upon a written document in his own possession or power, he shall produce such document in Court when the plaint is presented, and shall at the same time deliver a copy of the document to be filed with the plaint. Such copy shall have the stamp prescribed for petitions where a stamp is required for petitions. The plaintiff may, if he think proper, deliver the original document to be filed instead of a copy. If he rely on any other documents as evidence in support of his claim, he shall enter a list of such documents at the foot of the plaint. (S. C. C. & R. C.)

68. If the document on which the plaintiff sues be an entry in a shop-book, &c., to book or other book, the plaintiff shall produce the book to the Court, together with a copy of the entry on which he relies. Such copy shall bear the stamp prescribed for petitions where a stamp is required for petitions. (S. C. C. & R. C.)

69. The Court shall forthwith mark the document for the purpose of identification; and after examining and comparing the copy with the original, shall return the document to the plaintiff. (S. C. C. & R. C.)

70. No document required to be produced in Court by the plaintiff when the plaint is presented, or to be entered at the foot of the plaint, and not produced or entered accordingly, shall be received in evidence on his behalf at the hearing of the suit without the sanction of the Court. (S. C. C. & R. C.)

71. If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint, deliver to the Court a description of the document, and apply that the defendant may be re-

quired to produce the same, and the Court shall have power to compel such production. (S. C. C. & R. C.)

OF SUMMONING THE DEFENDANT.

72. After the plaint has been registered, a summons, under the signature of the Judge or of the Registrar or Clerk of the Court, and under the seal of the Court, shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by an Advocate duly instructed and able to answer all material questions relating to the suit, or by an Advocate who shall be accompanied by some other person able to answer all such questions. (S. C. C. & R. C.)

73. If the Court see reason to require the defendant or plaintiff to appear in person, the Court may order him to appear in person in Court on the day therein specified. If the Court see reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance. (S. C. C. & R. C.)

74. In suits by or against a Corporation or a Company authorized to sue and be sued in the name of an Officer or of a Trustee, the Court may require the personal appearance of any Director, Secretary, or other Principal Officer of the Corporation or Company who may be able to answer all material questions relating to the suit. (S. C. C. & R. C.)

75. No plaintiff or defendant shall be ordered to appear in person, who at the time is *bona fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the local limits of the jurisdiction of the Court; or unless railway communication exist between the place where he resides and the place where the Court is held; or within a convenient distance from such places, in which case the Court shall have a discretion as to making such order. (S. C. C. & R. C.)

76. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit, and the summons shall contain a direction accordingly.

77. In every suit cognizable under any law by Courts of Small Causes, the summons to the defendant shall be for the final disposal of the suit. (S. C. C. & R. C.)

78. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer on such day. (S. C. C. & R. C.)

79. The summons to appear and answer shall order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his case. (S. C. C. & R. C.)

80. When the summons is for the final disposal of the suit, it shall direct the defendant to produce on the day fixed for his appearance the witnesses upon whose evidence he intends to rely in support of his case. A similar direction shall be given to the plaintiff at the time of issuing the summons. (S. C. C. & R. C.)

81. The summons shall be in the form contained in the Schedule C annexed to this Code, or to the like effect; and shall contain a demand of the costs incurred to the time of payment. (S. C. C. & R. C.)

SERVICE OF SUMMONS ON THE DEFENDANT.

82. The summons shall be delivered to the proper Officer of the Court, to be served by him or one of his subordinates. (S. C. C. & R. C.)

83. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge or of the Registrar or Clerk of the Court and under the seal of the Court. (S. C. C. & R. C.)

84. When there are more defendants than one, service of the summons shall be made on each defendant: Provided that if the defendants are partners, and the suit relates to a partnership transaction, service on one defendant for himself and for the other defendants shall be sufficient, unless the Court shall otherwise direct. (S. C. C. & R. C.)

85. Whenever it may be practicable, the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient. (S. C. C. & R. C.)

86. In a suit relating to any business or work for gain, service on the servant or agent of the person carrying on such business or work shall be deemed to be good service upon such person, although he

does not reside within the local limits of the jurisdiction of the Court from which the summons issues: Provided that such servant or agent at the time of service personally carries on the business or work for gain for such person within such limits. (S. C. C.)

87. If the defendant cannot be found and if he have no agent empowered to accept the service of the summons on his behalf, the service may be made on any adult male member of the family of the defendant who is residing with him.

Explanation.—A servant is not a member of the family within the meaning of this Section. (S. C. C. & R. C.)

88. When the summons is served on the defendant personally, or on an agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service shall be made, to an acknowledgment of service to be endorsed on the original summons or on a duplicate thereof signed and sealed as aforesaid. If such person refuse to sign the acknowledgment, the serving Officer may affix the copy of the summons on some conspicuous part of the house in which the defendant is dwelling, but though copy not the service of the summons affixed. shall be held sufficient if it be proved to the satisfaction of the Court, notwithstanding that a copy of the summons shall not have been so affixed. (S. C. C. & R. C.)

89. If the defendant cannot be found and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be lawfully made, the serving Officer shall fix the copy of the summons on some conspicuous part of the house in which the defendant is dwelling. (S. C. C. & R. C.)

90. If the defendant is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from which it issued, with an endorsement thereon that he has been unable to serve it: Provided that if the serving Officer is informed that the defendant is to be found or has his dwelling in a place within the local limits of the jurisdiction of the Court other than that mentioned in the summons, the Officer may proceed to that place to serve the summons, and may serve it there. (S. C. C. & R. C.)

91. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons or on a duplicate thereof signed and sealed as aforesaid, the time when and the manner in which the summons was served, and such endorsement shall

be evidence of the service of the summons (S. C. C. & R. C.)

92. When a summons is returned without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way for the purpose of avoiding the service, or if for any other reason the summons cannot be served, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. The service which shall be substituted by order of the Court, shall be as effectual as if it had been made in any of the modes hereinbefore mentioned. (S. C. C. & R. C.)

93. If the defendant is resident within the jurisdiction of any Court other than the Court in which the suit is instituted, and has no agent empowered to accept the service of the summons, the Court in which the suit is instituted shall send the summons, either by an Officer of the Court or by post, to any Court, not being a High Court, having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require. The Court to which the summons is sent shall, upon receipt thereof, deliver it to the proper Officer of such Court, to be served in the manner hereinbefore directed. Upon the return of the summons by the serving Officer, it shall be sent back to the Court from which it originally issued. (S. C. C. & R. C.)

94. If the defendant be in Jail under either Civil or Criminal process, the summons shall be delivered to the Officer in charge of the Jail in which the defendant is confined, and such Officer shall cause the summons to be served upon the defendant. The summons shall be returned to the Officer from whom it was received with the acknowledgment of the defendant endorsed thereupon and countersigned by the Officer in charge of the Jail. (S. C. C. & R. C.)

95. If the Jail in which the defendant is confined is not in the District in which the suit is brought, the summons may be sent by post or otherwise to the Officer in charge of such Jail, and such Officer shall cause the summons to be served upon the defendant, and shall return the summons to the Court from which it issued, with the acknowledgment of the defendant endorsed thereupon, and countersigned as provided in the last preceding Section. (S. C. C. & R. C.)

96. If the defendant is resident out of British India, and has no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing and forwarded to him by post if there be a post to such place. (S. C. C.)

97. If there be a British Resident or Agent of Government in or for the Territory in which the defendant is residing, the summons may be sent to such Resident or Agent, by post or otherwise, for the purpose of being served upon the defendant; and if the Resident or Agent shall return the summons with his endorsement that the summons has been served on the defendant, such service shall be deemed good service. (S. C. C.)

98. In any case falling within the last two preceding Sections, the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post or otherwise between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit, or on any day to which the hearing shall have been adjourned, the defendant shall not appear, the plaintiff may apply to the Court, and the Court may direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet. (S. C. C.)

99. In a suit for immovable property, if the summons cannot be served on the defendant in person, and the defendant have no agent empowered to accept the service of the summons, it may be served on any agent of the defendant in charge of such property. (R. C.)

100. If the defendant be in the service of the Government, the Court may send a copy of the summons to the head Officer of the office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. (S. C. C. & R. C.)

101. If the defendant be an Officer or Soldier in the Military Service of the Government, the Court shall transmit a copy of the summons to the Commanding Officer of such Officer or Soldier for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed,

it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall take such other means of serving the summons as it may think fit. (S. C. C. & R. C.)

102. When the suit is against a Corporation or a Company authorized to sue and be sued in the name of an Officer or of a Trustee, the summons may be served by leaving the same at the registered office (if any) of the Corporation or Company, or sending it by post in a letter addressed to such Officer or Trustee at the Office of the Corporation or Company, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or Company. (S. C. C. & R. C.)

103. Nothing herein contained shall prevent the Court from substituting for the summons a letter signed by the Judge or Registrar or Clerk of the Court, and under the seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter shall contain all the particulars required to be stated in the summons, and, subject to the provisions contained in the next succeeding Section, shall be treated in all respects as a summons. (S. C. C. & R. C.)

104. When a letter or other communication is substituted for a summons, it may be sent by post or by a special messenger selected by the Court, or in any other manner which the Court may direct: unless the party shall have an agent empowered to accept the service of the summons, in which case delivery to such agent shall be deemed good service. (S. C. C. and R. C.)

OF SUITS AGAINST GOVERNMENT AND PUBLIC OFFICERS.

105. If the suit be against the Secretary of State for India or against the Government, the summons shall be served on the Government Advocate of the Court in which the suit is instituted or on any other person appointed to receive process on behalf of the Government. (S. C. C. & R. C.)

106. The Court, in fixing the day for the Secretary of State for India or the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Advocate to appear and answer on behalf of the Secretary of State for India or the Government, and may extend the time at its discretion on application being made for such extension. The Court may also in any case in which the Government Advocate is not accompanied by some person on the part of the Secretary of State for India or the Government

who may be able to answer any material questions relating to the suit, direct the attendance of such person. (S. C. C. & R. C.)

107. If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall, be served upon such Officer in the manner provided in Section 100. (S. C. C. & R. C.)

108. If the Officer on receiving the summons shall consider it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel; and the Court upon such application may extend the time for so long as shall appear to be requisite. (S. C. C. & R. C.)

109. If the Government undertake the defence of a suit of the nature referred to in Section 107, the Government Advocate, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the Register. (S. C. C. & R. C.)

110. If such application shall not be made by the Government Advocate on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest before judgment. (S. C. C. & R. C.)

111. If in a suit against an Officer of the Government the Court shall require the personal appearance of the defendant, and the defendant shall satisfy the Court that he cannot absent himself from his duty without detriment to the public service, the Court shall exempt him from appearing in person, but he shall be liable to be examined in any way in which an absent witness may be examined. (S. C. C. & R. C.)

OF MAKING PERSONS NOT BEFORE THE COURT PARTIES TO A SUIT.

112. If it appear to the Court at any stage of a suit, that any person who may be entitled to, or who may claim some share or interest in, the subject-matter of the suit, and who may be likely to be affected by the result, has not been made a party to the suit, Court may direct that persons appearing to be interested in a suit shall be made parties, and may cause notices to be served on them.

the Court may direct that such person shall be made either plaintiff or defendant in the suit as the case may be. In such case the Court shall issue a notice to such person in the manner hereinbefore provided for the service of a summons on a defendant. (S. C. C. & R. C.)

OF ARREST BEFORE JUDGMENT.

113. If at any stage of a suit for moveable property the plaintiff shall satisfy the Court that the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any decree that may be passed against him, has absconded, or is about to abscond or to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit. (S. C. C. & R. C.)

114. If the Court, after examining the applicant, and making such further investigation as it may consider necessary, shall find that the defendant has absconded, or that there is good ground for believing that he is about to abscond or to leave the jurisdiction of the Court with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree that may be passed against him, the Court may issue an order for bringing the defendant before the Court to show cause why he should not give security for his appearance. (S. C. C. & R. C.)

115. If the defendant fail to show such cause, the Court shall order him either to deposit in Court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit. The surety shall bind himself, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. (S. C. C. & R. C.)

116. If the defendant fail to comply with such order to give security, the Court may commit him to Jail until the decision of the suit or for such other time as the Court shall direct. (S. C. C. & R. C.)

117. The surety for the appearance of the defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation. On such application being made, the Court shall summon the defendant to appear, or

if it shall think fit, may issue a warrant for his arrest in the first instance. On the appearance of the defendant pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security. (S. C. C. & R. C.)

118. In the event of the defendant not furnishing fresh security, the Court may commit him to Jail until the decision of the suit, or, if judgment be given against him, until the execution of the decree, or for such time as the Court shall direct. (S. C. C. & R. C.)

119. If it shall appear to the Court that the defendant arrested or suit instituted on insufficient grounds, or if, after such arrest, the suit of the plaintiff is dismissed, or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may, on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest: Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such arrest. (S. C. C. & R. C.)

120. If in any suit the defendant is about to leave British India with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all respects the same as hereinbefore provided. (S. C. C.)

OF ATTACHMENT BEFORE JUDGMENT.

121. If in any suit the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or if the defendant with like intent shall have quitted the jurisdiction, leaving therein property belonging to him, the plaintiff may at any stage of the suit apply to the Court to call upon the defendant to furnish security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any such property shall be attached

until the further order of the Court. (S. C. C. & R. C.)

122. The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof; and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid. The declaration shall be in writing, and shall be verified in the manner hereinbefore provided for the verification of plaints: Provided that the Court may dispense with the specification and valuation required by this Section if satisfied of the plaintiff's inability to furnish the same. (S. C. C. & R. C.)

123. If the Court, after examining the applicant, and making any further investigation which it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, the Court may call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the order direct the attachment of the whole or any portion of the property specified in the application. (S. C. C. & R. C.)

124. If the defendant fail to show cause why he should not furnish security, or fail to furnish the security required within the time fixed by the Court, the Court may order that the property specified in the application or such portion thereof as shall appear to be sufficient to fulfil any decree which may be passed in the suit shall be attached, or it may order that the defendant be committed to custody until the decision of the suit or for such other time as the Court shall direct. (S. C. C. & R. C.)

125. If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been ordered to be attached, the Court shall order the attachment to be withdrawn. (S. C. C. & R. C.)

126. The attachment shall be made, according to the nature of the property to be attached, in the manner hereinafter provided for the attachment of property in execution of a decree for money. (S. C. C. & R. C.)

127. If any claim be preferred to the property attached before judgment, such claims shall be investigated in the manner hereinafter provided for the

investigation of claims to property attached in execution of a decree for money. (S. C. C. & R. C.)

128. When an order of attachment before judgment is passed, the Court which passed the order shall at any time remove the attachment on the defendant furnishing the security required, together with security for the costs of the attachment. (S. C. C. & R. C.)

129. If it shall appear to the Court that the attachment was obtained on insufficient grounds, or if, after the attachment, the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property: Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment. (S. C. C. & R. C.)

130. Attachment before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree. (S. C. C. & R. C.)

131. If it shall appear to the Court by which the property shall have been ordered to be attached before judgment, that there is reasonable ground for supposing that the decree, in satisfaction of which the sale of the property is applied for under the provisions of the last preceding Section, was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution if the decree be a decree of that Court, or if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the person on whose application the property was ordered to be attached to adopt proceedings to set aside the decree. (S. C. C. & R. C.)

132. When land paying revenue to Government, or a tenure liable to summary sale, forms the subject of a suit, if the party in possession of such land or tenure shall neglect to pay the Government revenue, or the rent due to the proprietor of the tenure, as the case may be, and a sale shall in consequence be ordered to take place, the party to the suit not in possession shall, upon payment

of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon at such rate as the Court may think fit, or may charge the amount so paid, with interest thereupon at such rate as the Court may order, in any adjustment of accounts which may be directed in the decree passed in the suit.

OF EX PARTE ORDERS TO PERFORM A CONTRACT.

133. In any suit brought under Section 24 on a contract which shall have been registered under any law for the registration of assurances, the Court may, on the application of the plaintiff at the time of the institution of the suit, and if satisfied that the contract is capable of being performed by the defendant, that the plaintiff is likely to be materially prejudiced by any delay in such performance, and that the application is in good faith, make an order *ex parte* calling upon the defendant within a time to be fixed by the Court to perform the contract, or to appear and show cause why its immediate performance should not be enforced. (S. C. C.)

134. If the defendant shall not, within the time fixed by the Court, either perform the contract, or appear and show cause why the immediate performance of the contract should not be enforced, and if it shall be proved to the satisfaction of the Court that the said order was duly served upon him in any of the modes of service hereinbefore provided, the Court shall proceed at once to take such evidence as the plaintiff shall adduce in support of his claim, and, subject to the conditions contained in Section 314, thereupon give judgment and pass a decree on the judgment so given as provided in the same Section. (S. C. C.)

OF INJUNCTIONS.

135. If it be shown to the satisfaction of the Court that any property which is in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, the Court may issue an injunction to such party, commanding him to refrain from doing the particular act complained of, or threatened, or give such other order for the purpose of staying and preventing the wasting, damaging or alienation of the property as to the Court may seem meet.

136. The Court may, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

137. Whenever it may appear to the Court to be necessary for the preservation or the better management or custody of any immovable property which is in dispute in a suit, it shall be lawful for the Court to appoint a Receiver or Manager of such property, on such

terms as to security or otherwise as to the Court shall seem fit, and if need be to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such Receiver or Manager, and to grant to such Receiver or Manager such fee or commission on the rents and profits of the property by way of remuneration, and all such powers as to bringing and defending suits, and for the management, protection, preservation, and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as the Court may think fit.

138. If the property be land paying revenue When the Collector to Government, and the may be appointed Receiver. Court shall consider that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be Receiver and Manager of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such Receiver and Manager.

139. In any suit for restraining the defendant Injunction to restrain repetition or contract or other injury, continuance of breach. and whether damages be claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for an injunction to restrain the defendant from the repetition or the continuance of the breach of contract or wrongful act complained of, or the committing of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right. Such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to the Court shall seem proper. In case of disobedience, an injunction granted under this Section or Section 135 may be enforced by the imprisonment of the defendant or the attachment of his movable property or both.

140. Any order for an injunction may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

141. If it shall appear to the Court that the Compensation to defendant for issue of injunction or institution of suit on insufficient grounds. the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it may deem a reasonable compensation to the defendant for the expense or in-

jury occasioned to him by the issue of the injunction: Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the injunction.

142. An award of compensation under Section 119, Section 129, or Execution of award of compensation. Section 141, shall be executed in the manner herein-after provided for the execution of decrees for money.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

143. If the plaintiff, at any time before judgment, satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, the Court may grant such permission on such terms as to costs or otherwise as it may deem proper. If the plaintiff withdraw from the suit without such permission, he shall be liable for such costs as the Court shall award, and shall be precluded from bringing a fresh suit for the same matter. (S. C. C. & R. C.)

144. In any fresh suit instituted on permission granted under the last preceding Section, the plaintiff shall be bound by the law of limitations in the same manner as if the first suit had not been brought. (S. C. C. & R. C.)

145. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith. (S. C. C. & R. C.)

146. On the application of the plaintiff reciting the substance of such agreement, compromise, or satisfaction, if such application shall have been presented before the suit is called up for the settlement of issues, or, in a suit in which the summons to the defendant shall be for the final disposal of the suit, if such application shall have been presented before the hearing of the suit has commenced, the Court, if satisfied that such agreement, compromise or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from the Collector a moiety of the stamp-duty, if any, paid on the plaint and the Collector shall pay the same: Provided that no such certificate shall be granted if the arrangement between the parties be such as to require the Court in disposing of the suit to pass a decree on which process of execution can be taken out. (S. C. C. & R. C.)

THE DEATH, MARRIAGE, AND BANKRUPTCY
OR INSOLVENCY OF PARTIES.

147. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survive. (S. C. C. & R. C.)

148. If there be more plaintiffs or defendants than one, and any of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants. (S. C. C. & R. C.)

149. If there be more plaintiffs than one, and any of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall survive to him or them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Register of the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative of the deceased plaintiff. (S. C. C. & R. C.)

150. If no application shall be made to the Court within a reasonable time by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in and shall be bound by the decree passed in the suit, in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs. (S. C. C. & R. C.)

151. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the place of such plaintiff in the Register of the suit, and the suit shall thereupon proceed. (S. C. C. & R. C.)

152. If no such application shall be made to the Court, within a reasonable time, by any person claiming to be the legal representative of any such deceased plaintiff as aforesaid, the Court may pass an order that the suit shall abate, and award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of such deceased plaintiff as aforesaid; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs or otherwise as it may think fit, pass such other order for bringing in the legal representative

of such deceased plaintiff as aforesaid, and for proceeding with the suit in order to a final determination of the matter in dispute, as may appear just and proper. (S. C. C. & R. C.)

153. If any dispute arise as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit. (S. C. C. & R. C.)

154. If there be more defendants than one and any of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant, or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court, specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit: Provided that the person so made defendant shall be at liberty to make any defence appropriate to his character as such representative. (S. C. C. & R. C.)

155. The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed against the wife alone. If the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree. (S. C. C. & R. C.)

156. The bankruptcy or insolvency of a plaintiff in any suit which his Assignee might maintain for the benefit of his creditors shall not abate the suit unless such Assignee shall decline to continue the suit and to give security for the costs thereof within such time as the Court may order. If the Assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may within eight days after such neglect or refusal apply for the abatement of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may

award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the plaintiff's estate. (S. C. C. & R. C.)

OF NOTICES TO PRODUCE, AND HOW THEY ARE TO BE SERVED.

157. When a party to a suit desires that any document, writing, or other thing which he believes to be in the possession or power of any other party to the suit and the production of which shall not have been previously required under the provisions of Sections 71 and 79, shall be produced at any hearing of the suit, such party shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same. One of such notices shall be filed in Court and the other shall be delivered by the Court to the proper Officer, to be served upon such party; and if the Court shall so order, such notice, when served, shall have the force of a summons. (S. C. C. & R. C.)

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

158. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house, and the suit shall then be heard, unless the hearing be adjourned to a future day which shall be fixed by the Court. (S. C. C. & R. C.)

159. If on the day fixed for the defendant to appear and answer, it shall be found that the summons has not been served upon him in consequence of the failure of the plaintiff to deposit, within the time allowed, the sum required to defray the cost of issuing such summons, the Court may order that the suit be dismissed: Provided that no such order shall be passed, although the summons shall not have been served upon the defendant, if, on the day fixed for him to appear and answer, he shall have entered an appearance by an Advocate or by a duly authorized agent, when he is allowed to appear by agent, or shall be in attendance in person. (S. C. C. & R. C.)

160. If on the day fixed for the defendant to appear and answer, or on any other subsequent day to which the hearing of the suit may be adjourned, neither party shall appear when called upon by the Court, the suit shall be dismissed. (S. C. C. & R. C.)

161. Whenever a suit is dismissed under either of the last two preceding Sections, the plaintiff shall be at liberty to bring a fresh suit unless precluded by the law of limitations; or if he shall within the period of thirty days from the date of the order dismissing the suit, satisfy the Court that there was a sufficient excuse for his

not making the deposit required within the time allowed or for his non-appearance, as the case may be, the Court may issue a fresh summons upon the plaint already filed. (S. C. C. & R. C.)

162. If the plaintiff shall appear and the defendant shall not appear, and the Court shall be satisfied that the summons was duly served, the Court may proceed to hear the suit *ex parte* or adjourn it, whether the summons was for the final disposal of the suit or for the settlement of issues only. If the summons shall have been issued for the final disposal of the suit, the Court, if satisfied of the justice of the plaintiff's claim, may proceed to pass a decree *ex parte* in his favour. (S. C. C. & R. C.)

163. If the defendant, on any subsequent day to which the hearing of the suit *ex parte* shall have been adjourned, shall appear and assign good cause for his previous non-appearance, he may, upon such terms as the Court may direct as to costs or otherwise, be heard in answer to the suit, in like manner as if he had appeared on the day fixed for his appearance. (S. C. C. & R. C.)

164. If the plaintiff shall appear and the defendant shall not appear, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes. (S. C. C. & R. C.)

165. If the plaintiff shall appear and the defendant shall not appear, and it shall be proved to the satisfaction of the Court that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and may direct notice of such day to be given to the defendant. (S. C. C. & R. C.)

166. If the defendant shall appear and the plaintiff shall not appear, the Court shall pass a decree against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass a decree against the defendant upon such admission. (S. C. C. & R. C.)

167. When a decree is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action. (S. C. C. & R. C.)

168. If there are more plaintiffs than one, and one or more of them shall appear in person or by an Advocate or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person nor by an Advocate nor by a co-plaintiff duly authorized, the Court may proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and pass such order as may seem just. (S. C. C. & R. C.)

169. If there are more defendants than one, and one or more of them shall appear in person or by an Advocate or by a co-defendant duly authorized, and the others of them shall not appear in person or by an Advocate or by a co-defendant duly authorized, the Court shall proceed with the suit, and shall at the time of passing judgment make such order with respect to the defendant or defendants who shall not have appeared as shall seem just. (S. C. C. & R. C.)

170. If a plaintiff or defendant who shall have been ordered to appear in person under the provisions of Section 73 or Section 74 shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants, respectively, who do not appear. (S. C. C. & R. C.)

171. In support of the cause shown by a plaintiff or defendant for failing to appear in person, the Court shall receive any declaration in writing on paper, which shall bear the stamp required for petitions to the Court where a stamp is required for petitions, signed by such plaintiff or defendant and verified in the manner hereinbefore provided for the verification of plaints. (S. C. C. & R. C.)

172. In any case in which a decree shall be passed *ex parte* against a defendant under Section 162, he may within a reasonable time, not exceeding thirty days after any process for enforcing the decree has been executed, apply to the Court by which the decree was made for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, and, if in a suit involving a claim to money, the amount with costs be paid into Court, the Court shall pass an order to set aside the decree upon such terms as to costs or otherwise as it shall think fit, and shall appoint a day for proceeding with the suit. (S. C. C. & R. C.)

173. In any case in which a decree is passed against a plaintiff by default under Section 166, he may within thirty days from

the date of the decree apply for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the decree upon such terms as to costs or otherwise as it shall think fit, and shall appoint a day for proceeding with the suit. (S. C. C. & R. C.)

174. No decree shall be set aside on any application as aforesaid, unless notice thereof shall have been served on the opposite party. (S. C. C. & R. C.)

175. In every case in which the Court shall pass an order under Section 172 or Section 173, for setting aside a decree, the order shall be final. (S. C. C. & R. C.)

OF PAYMENT INTO COURT.

176. The defendant in any suit involving a claim to money, may at any stage of the suit deposit in Court such sum of money as he considers a satisfaction in full of the claim including the costs incurred by the plaintiff, up to the time of such deposit. Notice of the deposit shall be given to the plaintiff, and the amount of the deposit shall be paid to him on his application. Notice of deposit. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof. (S. C. C. & R. C.)

177. Nothing in the last preceding Section shall be held to bar the plaintiff in any suit, in which the defendant shall deposit less than the amount claimed by the plaintiff, from proceeding in the suit for the recovery of the balance. (S. C. C. & R. C.)

OF WRITTEN STATEMENTS.

178. The parties at the first hearing of the suit, may tender written statements of their respective cases, and the Court shall receive and record such statements.

179. Written statements shall be on the stamp paper prescribed for petitions to be on stamp to the Court, where a stamp is required for petitions.

180. If in a suit for a debt the defendant desire to set-off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, and a suit for the recovery of the amount of such debt is not barred by the law of limitations, the defendant shall, at the first hearing of the suit, but not

afterwards unless permitted by the Court, tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same.

Explanation.—The debts mentioned in this Section include not only pecuniary debts, but claim for specific articles of the same nature. (S. C. C. & R. C.)

181. Except as provided in the last preceding Section, no written statement shall be received after the first hearing of the suit unless called for by the Court. The Court may, at any time, call for a written statement, or an additional written statement, from any of the parties, and fix a time for the filing of the same. When such statements are called for by the Court, they may be received on plain paper.

182. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but shall be confined as much as possible to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove.

183. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received unless it be so subscribed and verified.

184. If any party from whom a written statement shall have been called for under Section 181 shall fail to present the same within the time fixed by the Court, the Court may pass a decree against him, or make such other order in relation to the suit as it may deem proper.

185. If it shall appear to the Court that any written statement, whether it shall have been called for by the Court, or spontaneously tendered, is argumentative or prolix, or that it contains matter irrelevant to the suit, the Court may strike out any part of the statement, or, by an order to be endorsed thereon, reject the same, and return it to the party by whom it was made, imposing such terms as to costs and otherwise as to the Court shall seem fit. It shall not be competent to such party to present another written statement, unless it shall be expressly called for or allowed by the Court. (S. C. C. & R. C.)

OF THE EXAMINATION OF THE PARTIES AT THE FIRST HEARING.

186. At the first hearing of the suit, or at any subsequent hearing, any party who appears in person or is present in Court, or any person able to answer any material questions relating to the suit by whom he or his Advocate may be accompanied,

may be examined orally by the Court. The substance of the examination shall be reduced to writing and shall form part of the record. (S. C. C. & R. C.)

187. If any party to a suit who appears in person or is present in Court shall without lawful excuse refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass a decree against him, or make such order in relation to the suit as it may deem proper. (S. C. C. and R. C.)

188. If the Advocate of any party who shall appear by an Advocate, shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall appear in person on such day. If the party so directed to appear shall without lawful excuse fail to appear in person on the day so appointed, the Court may pass a decree against him, or make such order in relation to the suit as it may deem proper. (S. C. C. & R. C.)

OF THE PRODUCTION OF DOCUMENTS.

189. The documentary evidence of every description on which the parties to a suit may intend to rely, and which may not already have been filed in Court and all documents or other things, which shall have been specified in any notice to produce served on the parties or any of them within a reasonable time before the hearing of the suit, shall be produced at the first hearing of the suit on being called for by the Court. No documentary evidence of any kind, which the parties or any of them may desire to produce, shall be received at any subsequent stage of the proceedings unless good cause be shown to the satisfaction of the Court for the non-production thereof at the first hearing. (S. C. C. & R. C.)

190. The Court shall receive the documents produced by the parties. The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection. (S. C. C. & R. C.)

191. When a document is admitted in evidence at any stage of the suit, it shall be endorsed with the number and title of the suit, the name of the person producing it, and the date on which it was produced and shall be filed as part of the record: Provided that, if the document be an entry in a shop-book, or other book, the party on whose behalf such book is produced may furnish a copy of the entry, which may be on unstamped paper: the copy may be endorsed as aforesaid, and shall

be filed as part of the record, and the book shall be returned to the person producing it. (S. C. C. & R. C.)

192. When a document is rejected by the Court, it shall be endorsed in the manner specified in the last preceding Section with the addition of the word "rejected," and the endorsement shall be signed by the Judge. The document shall then be returned to the party who produced it, unless the Court shall think proper, on suspicion of the document having been fabricated, or for any other reason, to order that it be detained. (S. C. C. & R. C.)

193. If a document not bearing the stamp prescribed by law, be produced in evidence, the Court, if satisfied that the omission or neglect to execute such document on paper bearing the proper stamp did not arise from any intention to evade payment of the stamp duty prescribed for such document, or otherwise to defraud the Government, may receive in evidence such document, on payment into Court of the proper stamp duty and (as a penalty) treble the amount of such stamp duty; or if the document shall be insufficiently stamped, on payment into Court of such sum as with the amount of the stamp upon such document shall suffice to complete the prescribed amount, and (as a penalty) treble the sum required to complete the same. The proper amount to be paid into Court under this Section shall in each case be determined by the Court, whose decision on the point shall be final. (S. C. C. & R. C.)

194. An entry of every payment under the last preceding Section, setting forth the amount thereof, shall be made in a book to be kept by the Court, and shall also be endorsed on the back of the document in respect of which it is made, and shall be signed by the Court or by the Registrar or Clerk of the Court. (S. C. C. & R. C.)

195. The Judge shall at the end of every month make a return to the Collector of the Stamp Revenue of the District, of the money (if any) which the Court has received under the provisions of Section 193, distinguishing between the sums received by way of penalty and the sums received by way of duty. The return shall state the number and title of the suit, the name of the party from whom such money was received, and the date, if any, and description of the document. The Judge shall pay over the money so received to such Collector or to such person as the Collector may appoint to receive the same. (S. C. C. & R. C.)

196. The Collector or other proper authority shall, upon the production of a document in respect of which a payment of stamp duty shall have been made under Section 193,

with the endorsement hereinbefore mentioned, cause it to be stamped with a stamp of the amount paid into Court on account of such duty. (S. C. C. & R. C.)

197. In suits in which an appeal is allowed, when the time for preferring an appeal from the decree has elapsed, or, if an appeal has been preferred, then after the appeal has been disposed of, any person, whether a party to the suit or not, who may be desirous of receiving back any document produced by him in the suit, shall be entitled, on application to the Court in which such document may be, to receive back the same. (R. C.)

198. In suits in which an appeal is not allowed, the document may be returned, on application to the Court at any time after the suit has been disposed of. (S. C. C. & R. C.)

199. A document may be returned before the time mentioned in Section 197 or Section 198, if the Court in which the document may be shall think proper, for any special reason, to order its return. (S. C. C. & R. C.)

200. No document shall be returned the further use of which has been superseded by the terms of the decree, or which the Court has directed to be detained for purposes of public justice. (S. C. C. & R. C.)

201. When a document is returned, a certified copy to be kept. expense of the applicant, and bearing the stamp prescribed by law for copies of documents, shall be substituted for the original in the record of the suit. (S. C. C. & R. C.)

202. On the return of a document which has been admitted in evidence, a receipt shall be given by the party receiving the document, in a receipt-book to be kept for the purpose. (S. C. C. & R. C.)

203. The Court may, of its own accord, or upon the application of any of the parties to a suit, if the Court shall consider such application reasonable and proper, send for, either from its own records or from any other Court or public Office, the record of any other suit or case, or any other official paper, not being a document relating to affairs of State the production of which may be contrary to good policy, and inspect the same. (S. C. C. & R. C.)

OF THE SETTLEMENT OF ISSUES.

204. At the first hearing of the suit, the Court shall enquire upon what question of law or of fact the parties are at issue, and shall thereupon

the suit. In all such cases the Court shall fix a day for the further hearing of the suit: Provided that the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct: Provided also that when the hearing of evidence shall have once begun, the hearing of the suit shall not be adjourned at the application of any of the parties except from day to day when all the witnesses cannot be examined on the same day. (S. C. C. & R. C.)

216. If, on any day to which the hearing of the suit is adjourned, the parties or either of them shall not appear, the Court may proceed to dispose of the suit in the manner specified in Section 160, Section 162, or Section 166, as the case may be, or make such other order as may seem proper. (S. C. C. & R. C.)

217. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time may have been allowed, the Court may proceed to a decision of the suit on the record, notwithstanding such default. (S. C. C. & R. C.)

OF SUMMONING PERSONS TO GIVE EVIDENCE OR PRODUCE DOCUMENTS.

218. The parties may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded, if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to persons to attend either to give evidence or to produce a document, and in any such summons the names of any number of persons may be inserted. (S. C. C. & R. C.)

219. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable to defray the travelling and other expenses of the person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. (S. C. C. & R. C.)

220. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) laid down by the Court to which such Court shall be subordinate. (S. C. C. & R. C.)

221. The sum so paid into Court shall be tendered to the person named in the summons at the time of serving the summons if it can be served personally. (S. C. C. & R. C.)

222. If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the person named in the summons in passing to and from the Court is not sufficient to cover such expenses, and for one day's attendance, the Court may direct such further sum to be paid to such person as may appear to be necessary on that account; and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same; or the Court may discharge the person summoned without requiring him to give evidence. (S. C. C. & R. C.)

223. If it shall be necessary to detain the person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned, to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and in default of such deposit being made, may order him to be discharged without requiring him to give evidence. (S. C. C. & R. C.)

224. Every summons for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned may be called on to produce, shall be described in the summons with convenient certainty. (S. C. C. & R. C.)

225. Any person, whether a party to the suit or not, may be summoned to produce a document, without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same. (S. C. C. & R. C.)

226. The summons shall be in the form contained in the Schedule D to this Code annexed or to the like effect. (S. C. C. & R. C.)

SERVICE OF SUMMONS ON PERSONS REQUIRED TO GIVE EVIDENCE OR PRODUCE DOCUMENTS.

227. Every summons to a person to give evidence or produce a document shall be served by exhibiting the original, and delivering or tendering a copy to him. (S. C. C. & R. C.)

228. The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned to allow him a reasonable time for preparation, and for

travelling to the place at which his attendance is required. (S. C. C. & R. C.)

229. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend; but when such person cannot be found, the service may be made on an adult male member of his family residing with him. (S. C. C. & R. C.)

230. When the person required to attend cannot be found and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from which it issued with an endorsement thereon that he has been unable to serve it.

Explanation.—A servant is not a member of the family within the meaning of this or the last preceding Section. (S. C. C. & R. C.)

231. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons the time when and the manner in which it was served. (S. C. C. & R. C.)

232. If the person required to attend be resident within the jurisdiction of any Court other than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending to any Court other than a High Court having jurisdiction at the place where the witness resides, by which it can be most conveniently served; and the Court to which the summons is sent shall, upon receipt thereof, deliver the same to the proper Officer of such Court, to be served in the manner above directed. Upon the return of the summons by the serving Officer, it shall be sent to the Court from which it originally issued. (S. C. C. & R. C.)

233. If the summons for the attendance of a person either to give evidence or to produce a document, cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving Officer; and upon being satisfied that the evidence of such person or the production of the document is material, and that he is absconding or keeping out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring his attendance to give evidence, or produce the document, at a time and place to be named therein, to be affixed on some conspicuous place of the house in which he is dwelling; and if he shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the movable property of the person whose attendance is required to such amount as the Court shall deem reasonable, not being in excess of the amount

of the costs of attachment and of any fine to which he may be liable under the provisions of Section 235. (S. C. C. & R. C.)

234. If, on the attachment of his property, such person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. (S. C. C. & R. C.)

235. If the person whose attendance is required shall not appear, or appearing, shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such person under the provisions of the Indian Penal Code or any other law for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the person whose attendance is required shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment. (S. C. C. & R. C.)

OF THE EXAMINATION OF PARTIES AS WITNESSES.

236. When a party to suit appears in person at any hearing of the suit, he may be examined as a witness, either on his own behalf or on behalf of any other party to the suit, in the same manner as if he were not a party. (S. C. C. & R. C.)

237. If a party to a suit shall require to enforce the appearance of any other party thereto as a witness, he shall make a special application to the Court for an order requiring the appearance of such party, and shall show, to the satisfaction of the Court, sufficient ground in support of such application otherwise a summons shall not be issued. (S. C. C. & R. C.)

238. The Court, before making such order, may cause notice to be given to the party whose appearance is required, fixing a day for him to show cause why he should not appear and give evidence; and may also from time to time, for sufficient reason enlarge the time for such purpose. (S. C. C. & R. C.)

239. In support of the cause shown, the Court shall receive any declaration in writing of the party on unstamped paper, if signed by him and verified in the

manner hereinbefore provided for the verification of plaints. (S. C. C. & R. C.)

240. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to appear and give evidence. (S. C. C. & R. C.)

241. If the Court shall think it necessary to examine any party to the suit or to inspect any document in his possession or power, the Court may, of its own accord at any stage of the suit, cause him to be summoned to appear as a witness to give evidence or to produce such document if in his possession or power on a day to be appointed in the summons, and may examine him as a witness, or may cause him to be examined in such other manner as the Court may direct. (S. C. C. & R. C.)

OF THE EXAMINATION BY THE COURT OF STRANGERS TO THE SUIT.

242. If the Court shall at any time think it necessary to examine any person other than a party to the suit, and not named as a witness by a party to the suit, the Court may, of its own accord, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession on a day to be appointed, and may examine such person as a witness. (S. C. C. & R. C.)

OF QUESTIONS RESPECTING RELIGION OR CUSTOM.

243. In any suit pending in any Court subordinate to the District Court, in which any question relating to the law of the religion or the established customs of the parties or any of them shall arise, the Court may either take the evidence of any person learned in such law or customs, or may refer to any recognized authority thereupon, or may receive from any of the parties, a written opinion of any other person quoting or referring to any such authority; or the Court may, of its own accord, or on the application of any of the parties, refer the question, with a statement of such of the circumstances of the case as may appear necessary for the elucidation of the same, for the opinion of the District Court.

244. The District Court may either decide the question so referred to it on evidence, or on any recognized authority or opinion as aforesaid taken, referred to, or received by it; or may of its own motion, or on the application of any of the parties, refer the question, with the statement of the case received from the Court below, for the opinion of the High Court.

245. The District Court may proceed in the manner aforesaid in respect to any question of law relating to the religion or customs of the parties or any of them, arising in any suit pending in such Court.

246. Whenever any such question as aforesaid may be referred for the opinion of the High Court, or whenever any such question as aforesaid may arise in any suit pending before the High Court, such Court may take the evidence of any person learned in the particular law or custom to which the question relates, or refer to any recognized authority thereupon, or receive from the parties or any of them a written opinion of any other person quoting or referring to any such authority.

247. Whenever any question may be referred as aforesaid for the opinion of the District Court, or of the High Court, the Court making such reference shall postpone its decision in the suit in which such question shall have arisen, until the receipt of the opinion of the District Court or of the High Court as the case may be, upon the question so referred.

248. The Court to which the question is referred shall fix an early day for determining the same, which day shall be notified by a proclamation to be fixed up in the Court House. The parties to the suit in which such reference is made may appear and be heard on the question referred.

249. The Court shall transmit a copy of its decision, under the signature of the Judge or Registrar or Clerk of the Court and under the seal of the Court to the Court by which the reference was made, and such Court shall proceed to dispose of the question so referred conformably to such decision.

250. If the suit is pending in a Court subordinate to the District Court, and the District Court shall have made a reference to the High Court, the decision of the High Court shall be communicated to the Court in which the suit is pending, through the District Court by which the reference was made.

251. Costs, if any, consequent on a reference under the foregoing provisions, shall be costs in the suit.

252. When any case in which the District Court shall have given an opinion on a question referred to it under Section 243 shall come in appeal before such Court, and the same point shall arise upon the

Judge with his own hand in his vernacular language. When any such Judge is prevented by any sufficient reason from taking down the evidence of any witness, he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court. Any such order may be cancelled. (R. C.)

264. If the evidence be taken down in a language different from that in which it shall have been given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it was given. (R. C.)

265. If in a Court in which English is not the language in ordinary use the parties to the suit who are present, and the Advocates of such as are absent, consent to have such evidence as is given in English taken down in that language, the Judge may take down the evidence in English with his own hand. (R. C.)

266. It shall be in the discretion of the Court to take down or cause to be taken down, any particular question and answer if there shall appear any special reason for so doing, or if any party to the suit or his Advocate shall require it. (R. C.)

267. If any question put to a witness be objected to, the question, whether the Court allow or forbid it to be put, shall be taken down. The answer shall also be taken down if the Court allow the question to be put; and the objection and the name of the party making it shall be noticed in taking down the evidence, together with the decision of the Court upon the objection. (R. C.)

268. The Court may record such remarks as it may think material respecting the demeanour of any witness while under examination. (R. C.)

269. In cases in which the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. (R. C.)

270. In cases in which a regular appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. (S. C. C. & R. C.)

271. If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases in which a regular appeal is not allowed, he shall cause such memorandum to be made in writing from his dictation in open Court and shall sign the same, and such memorandum shall form part of the record. (S. C. C. & R. C.)

OF COMMISSIONS TO EXAMINE ABSENT WITNESSES, TO MAKE LOCAL ENQUIRIES, AND TO INVESTIGATE ACCOUNTS.

272. No person shall be bound to appear in person to give evidence in a Court if he reside at a place distant more than fifty miles from the place at which the Court is held, unless the Court shall specially order that he shall appear, nor in any case if he reside at a place distant more than one hundred miles from the place at which the Court is held: Provided that if Railway communication exist between the place at which he resides and the place where the Court is held, or within a convenient distance from such places, the Court shall have a discretion as to making such order. (S. C. C. & R. C.)

273. The Court, on making an order for the attendance of a witness residing at a distance exceeding fifty miles by the ordinary means of communication from the place where the Court is held, shall record the reasons for making such order. (S. C. C. & R. C.)

274. The Court may order a Commission to issue for the examination on interrogatories or otherwise of any person who, under Section 272, is not bound to attend the Court, or who is required to give evidence only on a question relating to the law of the religion or established customs of the parties or any of them under Section 243, or Section 244, or Section 246, or who is from sickness or infirmity unable to attend, or who is a person exempted by any law for the time being in force, by reason of rank or sex, from appearing in Court. (S. C. C. & R. C.)

275. Such order as aforesaid may be made by the Court either of its own motion or on the application of any party to the suit or of the witness. The Court may, by the same or any subsequent order, give such directions as to taking the examination of an absent witness as shall seem proper. (S. C. C. & R. C.)

276. If a Commission be issued for the examination of a person who is resident within the jurisdiction of the Court issuing the Commission, the Commission may be issued to any Officer of the Court or to any Court subordinate to such Court, or to

Judge with his own hand in his vernacular language. When any such Judge is prevented by any sufficient reason from taking down the evidence of any witness, he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court. Any such order may be cancelled. (R. C.)

264. If the evidence be taken down in a language different from that in which it shall have been given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it was given. (R. C.)

265. If in a Court in which English is not the language in ordinary use the parties to the suit who are present, and the Advocates of such as are absent, consent to have such evidence as is given in English taken down in that language, the Judge may take down the evidence in English with his own hand. (R. C.)

266. It shall be in the discretion of the Court to take down or cause to be taken down, any particular question and answer if there shall appear any special reason for so doing, or if any party to the suit or his Advocate shall require it. (R. C.)

267. If any question put to a witness be objected to, the question, whether the Court allow or forbid it to be put, shall be taken down. The answer shall also be taken down if the Court allow the question to be put; and the objection and the name of the party making it shall be noticed in taking down the evidence, together with the decision of the Court upon the objection. (R. C.)

268. The Court may record such remarks as it may think material respecting the demeanour of any witness while under examination. (R. C.)

269. In cases in which the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. (R. C.)

270. In cases in which a regular appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. (S. C. C. & R. C.)

271. If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases in which a regular appeal is not allowed, he shall cause such memorandum to be made in writing from his dictation in open Court and shall sign the same, and such memorandum shall form part of the record. (S. C. C. & R. C.)

OF COMMISSIONS TO EXAMINE ABSENT WITNESSES, TO MAKE LOCAL ENQUIRIES, AND TO INVESTIGATE ACCOUNTS.

272. No person shall be bound to appear in person to give evidence in a Court if he reside at a place distant more than fifty miles from the place at which the Court is held, unless the Court shall specially order that he shall appear, nor in any case if he reside at a place distant more than one hundred miles from the place at which the Court is held: Provided that if Railway communication exist between the place at which he resides and the place where the Court is held, or within a convenient distance from such places, the Court shall have a discretion as to making such order. (S. C. C. & R. C.)

273. The Court, on making an order for the attendance of a witness residing at a distance exceeding fifty miles by the ordinary means of communication from the place where the Court is held, shall record the reasons for making such order. (S. C. C. & R. C.)

274. The Court may order a Commission to issue for the examination on interrogatories or otherwise of any person who, under Section 272, is not bound to attend the Court, or who is required to give evidence only on a question relating to the law of the religion or established customs of the parties or any of them under Section 243, or Section 244, or Section 246, or who is from sickness or infirmity unable to attend, or who is a person exempted by any law for the time being in force, by reason of rank or sex, from appearing in Court. (S. C. C. & R. C.)

275. Such order as aforesaid may be made by the Court either of its own motion or on the application of any party to the suit or of the witness. The Court may, by the same or any subsequent order, give such directions as to taking the examination of an absent witness as shall seem proper. (S. C. C. & R. C.)

276. If a Commission be issued for the examination of a person who is resident within the jurisdiction of the Court issuing the Commission, the Commission may be issued to any Officer of the Court or to any Court subordinate to such Court, or to

any other person whom the Court issuing the Commission may think proper to appoint to execute the same (S. C. C. & R. C.)

277. If the person be resident at some place in British India beyond the jurisdiction of the Court issuing the Commission, the Commission shall ordinarily be issued to any Court, not being a High Court, within whose jurisdiction he may reside, and which can most conveniently execute the same: Provided that, under special circumstances, the Commission may be issued to any person whom the Court issuing it may think proper to appoint. (S. C. C. & R. C.)

278. If the person be resident beyond the jurisdiction of the Court issuing the Commission and within the local limits of the ordinary original Civil jurisdiction of any High Court, the Commission shall be issued to the Court of Small Causes, within whose jurisdiction the witness resides, or to any Court other than a High Court which may now exist or may hereafter be established with jurisdiction within the same local limits: Provided that, under special circumstances, the Commission may be directed to any person whom the Court issuing the Commission may think proper to appoint. (S. C. C. & R. C.)

279. In the case of a person resident at some place not within British India, but within the territories of a Native Prince or State in alliance with the British Government, the Court, if satisfied that the evidence of such person is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission for his examination: Provided that, if the suit be pending in any Court subordinate to the District Court, such subordinate Court shall not issue the Commission, but the District Court may issue the Commission on the application of the subordinate Court. (S. C. C. & R. C.)

280. In the case of a person resident at some place neither within British India nor within the territories of a Native Prince or State in alliance with the British Government, the High Court, if the suit in which the evidence of the witness is required be pending in that Court, and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission for his examination. If the suit be pending in a Court subordinate to the High Court, the High Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases the Commission may be issued to any person whom the High Court may think proper to appoint.

281. If a person, whether he be a party to the suit or not, whose evidence is required, is in jail, the Court may issue a Com-

mission to any Officer of the Court or other person to take the evidence of such person either upon written interrogatories or otherwise, and the Commissioner shall proceed to the jail in which such person is confined, and take his evidence in accordance with the instructions given by the Court in any part of the jail which the Officer in charge of the jail shall appoint. (S. C. C. & R. C.)

282. The examination of the person in jail whose evidence is required shall be taken in the presence of the parties to the suit or their Advocates or Agents or any of them, and such parties, Advocates or Agents, shall be allowed to cross-examine such person. The Officer in charge of the jail or some person appointed by him shall be present during the examination. (S. C. C. & R. C.)

283. If the jail in which the person whose evidence is required is confined, is not within the local limits of the jurisdiction of the Court in which the suit is brought, the Court may issue a Commission to any Court, other than a High Court, having jurisdiction at the place where such jail is situated, and the Court to which the Commission is issued shall proceed as provided in Section 281, the provisions of which as well as of Section 282 shall apply in such case. (S. C. C. & R. C.)

284. After the Commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the Commission shall have otherwise directed, in which case the Commission shall be returned in terms of such order, and the Commission and the return thereto, and the evidence taken under it, shall form part of the record of the suit. (S. C. C. & R. C.)

285. Evidence taken under a Commission shall not be read as evidence in the suit without the consent of the party against whom the same may be offered, unless it be proved that the person who gave the evidence is beyond the jurisdiction of the Court, or dead or unable from sickness or infirmity to attend to be personally examined, or exempted by reason of rank or sex or by the provisions of Section 272 from personal appearance in Court, or unless the evidence is on a question relating to the law of the religion or established customs of the parties or any of them. (S. C. C. & R. C.)

286. The Court may at its discretion dispense with the proof of any of the circumstances mentioned in the last preceding Section, or may authorize the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by Commission has ceased at the time of reading the same. (S. C. C. & R. C.)

287. In any suit in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an Officer of the Court appointed to execute such Commissions, or if there be no such Officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. (S. C. C. & R. C.)

288. If in any case it shall appear desirable to employ an Officer of Government other than the Commissioner, the Court may, with the consent of the immediate superior of the Officer whom the Court shall wish to employ, appoint him to make such investigation and report. (S. C. C. & R. C.)

289. The Commissioner, unless otherwise directed by the order of appointment, shall have power to examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner may think proper to call upon to give evidence in the matter referred to him. The Commissioner may also call for and examine documents and other papers relevant to the subject of enquiry. The Commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the evidence of witnesses in the presence of the Judge, the evidence taken by him, shall return such evidence, together with his report in writing, subscribed with his name, to the Court. (S. C. C. & R. C.)

290. The report of the Commissioner and the evidence taken by him shall be evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he may have conducted the investigation. (S. C. C. & R. C.)

291. In any suit in which an investigation or adjustment of accounts may be necessary, the Court may appoint such Officer or other person as aforesaid to be a Commissioner for the purpose of making such investigation or adjustment. (S. C. C. & R. C.)

292. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary, and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry or also to report his own opinion on the point referred for his investigation. (S. C. C. & R. C.)

293. The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court may have reason to be dissatisfied with them, in which case the Court shall direct such further enquiry as may be requisite, and shall make such decree or order as may appear to be proper. (S. C. C. & R. C.)

294. Whenever a Commission is issued under any of the foregoing provisions, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party at whose instance or for whose benefit the Commission is issued. (S. C. C. & R. C.)

295. The provisions of this Code relating to the summoning, attendance, and examination of witnesses and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under the foregoing provisions relating to Commissions to examine persons whether parties to the suit or not, or make local enquiries, or to investigate or adjust accounts. Any penalty to which a witness may be liable under this Section, shall be imposed by the Court from which the Commission issued, on the application of the Commissioner. The Commissioner shall have the same powers, so far as he can exercise the same, as regards the summoning, examination, and remuneration of witnesses as the Court issuing the Commission. (S. C. C. & R. C.)

296. Whenever a Commission shall be issued under the provisions of this Chapter, the Court shall direct that the parties to the suit shall appear before the Commission in person or by their Agents or Advocates. If the parties do not so appear the Commissioner may proceed *ex parte*. (S. C. C. & R. C.)

OF ASSESSORS.

297. In any Court to which the provisions of this Section and of the next succeeding Section shall be extended by an order of the Local Government to be notified in the Official Gazette, the Court may order the hearing of any suit to be conducted in the presence and with the aid of two or more Assessors as members of the Court. The Court shall have power to appoint such Assessors. (S. C. C.)

298. The opinion of each Assessor, if given orally, shall be recorded in writing by the Court; but such opinion shall be in no way binding upon the Judge, with whom exclusively the decision of the suit shall rest. (S. C. C.)

OF THE OATH OF THE PARTIES.

299. If the parties shall agree in writing that the decision shall rest on the statement whether on oath affirmation or otherwise of any one or more of the parties or of any other person, the Court may pass a decree accordingly. Such agreement may be on plain paper.

OF JUDGMENT AND DECREE.

300. The Court after inspecting the documentary evidence and examining the witnesses of the parties and hearing the parties in person or by their respective Advocates, shall pronounce judgment in open Court either at once or on some future day, of which due notice shall be given to the parties or their Advocates. (S. C. C. & R. C.)

301. The judgment shall be written in the vernacular language of the Judge: Provided that if such language be not English and the Judge be sufficiently conversant with the English language to be able to write a decision in that language, and prefer so to write it, the judgment may be written in English. (S. C. C. & R. C.)

302. Whenever the judgment is written in any language other than that in ordinary use in proceedings before the Court, the judgment shall be translated into the language in ordinary use in such proceedings, and the translation shall also be signed by the Judge: Provided that if the judgment be written in English, it shall not be necessary to make a translation of it in suits in which a regular appeal is not allowed, unless any of the parties shall require such translation. (S. C. C. & R. C.)

303. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it. (S. C. C. & R. C.)

304. The judgments of the Courts of Small Causes shall not be required to contain more than the points for determination and the decision thereupon. The judgments of all other Courts shall, in addition to the points for determination and the decision thereon, contain the reasons for such decision. (S. C. C. & R. C.)

305. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons thereof, upon each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

306. The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or proportion. The Court shall have full power to award and apportion the costs in any manner it may deem proper. (S. C. C. & R. C.)

307. The Court may direct that the costs payable to one party by another shall be set-off against a sum which the former shall admit to be due from him to the latter. (S. C. C. & R. C.)

308. The Court may give interest on costs at six per cent. per annum, and direct that costs, with or without interest, be made a charge on the subject-matter of the suit. (S. C. C. & R. C.)

309. The decree shall bear date the day on which the judgment was pronounced. (S. C. C. & R. C.)

310. The decree shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court. (S. C. C. & R. C.)

311. When the suit is for immovable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or other property decreed.

312. A memorandum of such decree shall, in pursuance of the forty-fifth Section of Act XVI of 1864, (to provide for the Registration of Assurances), be sent to every District Registrar within the local limits of whose jurisdiction such immovable property or any part thereof is situate.

313. When the suit is for movable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had. (S. C. C. & R. C.)

314. When a suit has been brought to compel specific performance of a contract, if it appear to the Court that the consideration is adequate, that the contract is reasonably certain, that the defendant

is able to perform it, and that the performance would not impose extreme and immoderate hardship upon him, the Court may declare that the contract shall be specifically performed, and decree the same accordingly. (S. C. C.)

315. The Court may also declare that, in the event of the contract not being specifically performed, the defendant shall pay to the plaintiff as damages a sum of money to be assessed by the Court in substitution for such performance. Such damages shall be recoverable at the option and on the application of the plaintiff. (S. C. C.)

Decree in alternative for damages in suit for specific performance.

316. If it shall appear that the defendant is unable to perform the contract, or that, though he may be able to perform it, the consideration is greatly inadequate, or that the result of performing it would impose extreme and immoderate hardship upon him, the Court may declare that the defendant shall pay to the plaintiff damages to be assessed in such manner as the Court shall direct: Provided that the Court may decree as liquidated damages any sum that the parties may have agreed should be paid in the event of a breach of the contract, without reference to the extent of the injury sustained.

Damages when contract not specifically performed.

*Explanation (a).—*The adequacy of the consideration is to be judged with reference to the time at which the contract was made.

*(b).—*The certainty required must be a reasonable one, having regard to the subject-matter of the contract, and the circumstances in and with reference to which it was entered into. (S. C. C.)

317. When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court, with the consent of the plaintiff, may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed. (S. C. C.)

Decree in alternative for specific performance in suit for damages for breach of contract.

318. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court may think proper to be paid on the principal sum adjudged from the date of suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the date of suit, with further interest on the aggregate sum so adjudged and on the costs of the suit from the date of the decree to the date of payment. (S. C. C. & R. C.)

In suits for money, decree may order certain interest to be paid on principal sum adjudged.

319. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest. (S. C. C. & R. C.)

Payment by instalments.

320. When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent in respect of such property from the date of the suit until the date of delivery of possession to the party in whose favour the decree is made, with interest thereupon at such rate as the Court may think proper.

In suits for land, Court may decree payment of mesne profits with interest.

321. When the suit is for land and for mesne profits which have accrued on the land during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree according as may appear most convenient.

Court may determine amount of mesne profits prior to passing decree or may reserve enquiry.

322. If the defendant shall have set-off the amount of a debt against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect and be subject to the same rules in respect of appeal or otherwise as if such sum had been claimed by the defendant in a separate suit against the plaintiff. (S. C. C.)

If set-off be allowed.

Effect of decree.

323. When a decree is passed for a sum of money only and the amount decreed shall not exceed the sum of one thousand rupees, the Court may, at the same time that it passes the decree, on the verbal application of the party in whose favour the decree is made, order immediate execution thereof by the issue of a warrant directed either against the person of the defendant if he is within the local limits of the jurisdiction of the Court, or against the personal property of the defendant within the same limits. (S. C. C. & R. C.)

If decree be for a sum of money not exceeding Rs. 1,000, Court may on verbal application direct immediate execution.

324. If the warrant be directed against the movable property of the defendant, it may be general against any of his movable property wherever it may be found within the local limits of the jurisdiction of the Court, or special against any of his movable property within the same limits which shall be indicated by the party in whose favour the decree is made. (S. C. C. & R. C.)

Warrant against movable property may be general or special.

325. Certified copies of the decree and judgment or of either the decree or judgment shall be furnished to the parties on application to the Court, and on the production of the necessary stamp paper for making such copies where a stamp is required by law. The application may be made either orally or by writing on unstamped paper. Copies of the decree and

Certified copies of decree and judgment to be furnished.

judgment may be taken on the same sheet of stamp paper if it be capable of containing them. (S. C. C. & R. C.)

CHAPTER V.

OF THE EXECUTION OF DECREES.

326. If the decree be for any immovable property, possession thereof shall be delivered over to the party to whom it shall have been adjudged. (R. C.)

327. If the decree be for any specific movable, it shall be enforced by the seizure, if practicable, of the specific movable and by the delivery thereof to the party to whom it shall have been adjudged.

328. A decree for the specific performance of a contract may be enforced by the imprisonment of the party against whom the decree is made, or by the attachment of his property, or by both the imprisonment of the party and the attachment of his property. The imprisonment and attachment may be continued until the party against whom the decree is made shall comply with the terms of it, or for such time as the Court shall order: Provided that no person shall be imprisoned under this Section for a longer period than six months. (S. C. C.)

329. Payment of a sum of money ordered to be paid under Section 313, Section 315 or Section 316 shall be enforced in the manner hereinafter provided for the execution of a decree for money. (S. C. C. & R. C.)

330. If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both. (S. C. C. & R. C.)

331. If in any suit a decree for money is passed against a plaintiff, the decree may be enforced against him in the same manner as a decree may be enforced against a defendant. (S. C. C.)

332. If the decree be for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the party ordered to execute such conveyance or endorse such instrument shall neglect or refuse to comply with the order, the party in whose favour the decree is made may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and deliver a copy of the draft to the party so ordered to execute or endorse and tender another copy of the same to the Court for execution upon the proper stamp paper if a stamp is required by law. The Court shall thereupon execute such draft

conveyance or endorsement and if it think fit, may, alter the same in accordance with the terms of the decree and execute the conveyance or endorsement so altered: Provided that if either party object to the draft so tendered as aforesaid, his objections shall within eight days of such delivery be stated in writing and argued before the Court, and the Court shall thereupon pass such order as it may think fit and execute or alter and execute the draft in accordance therewith. (S. C. C. & R. C.)

333. The execution of a conveyance or the Form and effect of endorsement of a negotiable instrument by the Court under the last preceding Section shall be in the following form—“C. D. Judge of the Court of (or as the case may be) for A. B., in a suit by E. F. against A. B.—” and shall have the same effect as the execution of the conveyance or endorsement of the instrument by the party ordered to execute or endorse the same. (S. C. C. & R. C.)

334. If the decree be against Government or against an Officer acting on behalf of Government, and the Officer against whom execution is applied for neglect or refuse to satisfy the decree, the Court, if it be a subordinate Court, shall report the case through the High Court for the orders of the Local Government. If any such decree be passed by the High Court on its original side, the High Court shall in case of such neglect or refusal report the case for the orders of the Local Government. Execution shall not issue on the decree unless the decree shall remain unsatisfied for the period of three months calculated from the date of such report. (S. C. C.)

335. If the decree be against a party as the representative of a deceased person, and the decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or if no such property can be found and the defendant fail to satisfy the Court that he has duly applied for such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against him personally. (S. C. C. & R. C.)

336. Whenever a person has become liable as surety for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant. (S. C. C. & R. C.)

337. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank notes, cheques, bills of exchange, promissory notes, Government

securities, bonds or other securities for money, debts, shares in the capital or joint-stock of any Railway, Banking or other Public Company or Corporation, and all other property whatsoever, movable or immovable, belonging to the defendant, and whether the same be held in the name of the defendant or by another person in trust for him, or on his behalf: Provided that nothing contained in this Section shall be held to give any Court of Small Causes power to attach and sell in execution of a decree passed by such Court any property which Courts of Small Causes are prohibited by law from attaching and selling in execution of their decrees. (S. C. C. & R. C.)

338. All monies payable under a decree shall be paid into the Court whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct. (S. C. C. & R. C.)

Payment of monies under decree to be made into Court.

339. Except as provided in the last preceding Section; no adjustment of a decree in part or in whole shall be recognized by the Court unless such adjustment be made through the Court, or be certified to the Court by the person in whose favour the decree was passed or to whom it may have been transferred. (S. C. C. & R. C.)

Adjustment of decree to be made through Court.

APPLICATION FOR EXECUTION.

340. When a party in whose favour a decree has been passed is desirous of enforcing it, he shall apply to the Court which passed the decree, or to the Court whose duty it is under this Code or any other law to execute the decree, to execute the same. (S. C. C. & R. C.)

Application for execution.

341. If a decree shall have been passed in favour of more persons than one, any one of such persons may apply for the execution of the decree, and if the Court shall see sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it may deem necessary for protecting the interests of the persons who shall not have joined in the application. (S. C. C. & R. C.)

Any one of several decree-holders may apply.

342. If a decree be transferred by assignment or by operation of law from the party in whose favour it was passed to any other person, application for execution may be made by the person to whom the decree shall have been so transferred, and if the Court shall think proper to grant the application, the decree may be executed in the same manner and subject to the same conditions, as if the application were made by the party in whose favour the decree was passed. (S. C. C. & R. C.)

Application by transferee of decree.

343. If cross-decrees between two parties for the payment of money be produced to the Court, and whether or not either of such parties be the original holder or assignee of the decree, execution

Cross-decrees.

shall be taken out only by the party who shall hold a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum. If the two sums be equal, satisfaction shall be entered upon both decrees. (S. C. C. & R. C.)

344. If a suit or appeal be pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may stay execution on the decree either absolutely or on such terms as it may think just, until the pending suit or appeal has been decided. (S. C. C. & R. C.)

Stay of execution pending suit between decree-holder and judgment-debtor.

345. If any person against whom a decree has been passed shall die before it has been fully executed, application may be made for its execution against the representative or the estate of the deceased. (S. C. C. & R. C.)

If person against whom decree made die before execution, application may be made against his representative or estate.

346. Notice of an application under the last preceding Section shall be given to the person named therein as the representative of the deceased or as the person in charge of his estate, and if the Court after hearing such representative or other person against the application, shall think proper to grant the same, the execution may be proceeded with against such representative or estate. (S. C. C. & R. C.)

Notice of application to be given to representative.

347. If a decree be ordered to be executed against the representative of the party against whom the decree was made, it shall be executed in the manner provided in Section 335 for the execution of a decree for money to be paid out of the property of a deceased person. (S. C. C. & R. C.)

Execution of decree against representative.

348. The application for the execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit; the names of the parties; the date of the decree; whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damage with the interest, if any, due upon the decree, or other relief granted by the decree; the amount of costs, if any were awarded; the name of the person against whom the enforcement of the decree is sought, and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property or otherwise. (S. C. C. & R. C.)

Form of application for execution of decree.

349. If the application be for the attachment of any immovable property belonging to the defendant, the application shall contain at the foot such a description of the property as may be sufficient to identify it, and also a specification of the share or interest of the defendant therein to the best of the belief of the applicant and so far as he has been able to ascertain the same.

350. If the property be land which, whether it pays revenue to Government or not, is registered in the Collector's Office, the application for attachment shall be accompanied by an authenticated extract from the register of such Office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, and (where registered) the shares of the registered proprietors.

351. An application for an attachment of the movable property of the defendant or any part thereof, may be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description of the same; or the decree-holder may apply for a general attachment of the movable property of the defendant wheresoever the same can be found, to the amount of the decree and costs. (S. C. C. & R. C.)

352. The Court, on receiving an application for the execution of a decree containing the particulars mentioned in Section 348, or such of them as may be applicable to the case, shall enter in the register of the suit a note of the application and the date on which it was made. (S. C. C. & R. C.)

353. If the particulars do not correspond with the decree, the Court shall either return the application for correction to the person making it, or shall, with his consent, cause the necessary correction to be made. (S. C. C. & R. C.)

354. If the application be admitted, the Court shall order execution of the decree according to the nature of the application. (S. C. C. & R. C.)

MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

355. If more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the representative of a party to the suit in which the decree was made, the Court shall issue a notice to the party against whom execution is applied for, requiring him to

show cause, within a period to be fixed by the Court, why the decree should not be executed against him: Provided that no

Proviso. such notice shall be necessary in consequence of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution: Provided also that no such notice shall be necessary in consequence of the application being against the representative of the party against whom the decree was made, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him. (S. C. C. & R. C.)

356. If the person to whom notice is issued under the last preceding Section shall not appear, or shall not show cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed. If such person shall offer any objection to the enforcement of the decree, the Court shall pass such order as may appear to be proper. (S. C. C. & R. C.)

357. If the application is for a general attachment of the movable property of the party liable under the decree, the Court may, before issuing an order for such attachment, require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any person other than the party liable as aforesaid. (S. C. C. & R. C.)

358. Before granting the order for a general attachment, or at the instance of the holder of the decree at any time before its complete execution, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the decree. (S. C. C. & R. C.)

359. The Court may, of its own motion or at the instance of any person interested in the enquiry, summon and examine other persons as to property liable to be seized. It may think necessary and examine him in respect to any property liable to be seized in satisfaction of the decree, and may require the person summoned to produce any document in his possession or power relating to such property. (S. C. C. & R. C.)

ISSUE OF THE WARRANT.

360. When the preliminary measures (if any) required by the foregoing provisions have been taken, the Court, unless it see cause to the contrary, shall issue its warrant for the execution of the decree. (S. C. C. & R. C.)

361. The warrant for the execution of the decree shall bear the date of How to be dated, the day on which it is issued signed, &c.

and shall be signed by the Judge, or the Registrar or Clerk of the Court, and shall be sealed with the seal of the Court, and delivered to the proper Officer to be executed. (S. C. C. & R. C.)

362. If the warrant be for the arrest of the defendant, it shall direct the Officer entrusted with the execution of the warrant to bring the defendant before the Court. (S. C. C. & R. C.)

363. A day shall be specified in the warrant on or before which it is to be returned. (S. C. C. & R. C.)

364. The Officer entrusted with the execution of the warrant shall endorse thereupon the day on, and the manner in, which it was executed; or if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the Court. (S. C. C. & R. C.)

OF THE EXECUTION OF DECREES FOR IMMOVABLE PROPERTY.

365. If the decree be for any immovable property in the occupancy of the defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit in which the decree was passed, the Court shall order delivery to be made by putting the party to whom the property shall have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession of the property, and, if need be, by removing any person who may refuse to vacate the same.

366. If the decree be for any immovable property in the occupancy of a tenant or other person entitled to occupy the same, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum, or in such other mode as may be customary, at some convenient place, the substance of the decree in regard to the property.

367. If the decree be for the partition of an estate, or for the separate possession of a share of an undivided estate paying revenue to Government, the partition of the estate or the separation of the share shall be made according to the rules (if any) in force in the District for the partition of an estate paying revenue to Government.

368. If in the execution of a decree for any immovable property, the Officer entrusted with the execution of the warrant shall be resisted or obstructed by any person, the person in whose favour the decree was made may complain to the Court at any time within one month from the time of such resistance or obstruction. The Court shall

fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

369. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant or by some person at his instigation, on the ground that the property is not included in the decree or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper.

370. If the Court shall be satisfied that the resistance or obstruction complained of was without any just cause, and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the decree-holder, and without prejudice to any proceedings to which such defendant or other person may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, commit the defendant or such other person to jail for any period not exceeding thirty days which may be necessary to prevent the continuance of such obstruction or resistance.

371. If the resistance or obstruction to the execution of the decree has been occasioned by any person other than the defendant, claiming *bona fide* to be in possession of the property on his own account or on account of some person other than the defendant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of Chapter IV, and shall pass such order for staying execution of the decree or executing the same, as it may deem proper.

372. If any person other than the defendant shall be dispossessed of any property in execution of a decree and such person shall dispute the right of the holder of the decree to dispossess him of such property under the decree, on the ground that the property was *bona fide* in his possession on his own account or on account of some person other than the defendant, and that it was not included in the decree, or that, if it was included in the decree, he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and

registered as a suit between the applicant as plaintiff and the holder of the decree as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like power as if a suit for the property had been instituted by the applicant against the holder of the decree under the provisions of Chapter IV.

373. The order passed under either of Sections 371 and 372 shall be in the nature of, and shall have the same force as, a decree in a suit, and shall be, subject to the same conditions as to appeal or otherwise. No fresh suit shall be entertained in any Court between the same parties or persons claiming under them, in respect of the same cause of action: Provided that nothing in the last preceding Section shall prevent any person, instead of applying to the Court as provided therein, from instituting a suit to establish his right to the property of which he may consider himself to have been wrongfully dispossessed.

OF THE EXECUTION OF DECREES FOR MONEY BY ATTACHMENT OF PROPERTY.

374. If the decree be for money, and the amount of the decree is to be levied from the property of the person against whom the decree shall have been passed, the Court shall cause the property to be attached in the manner hereinafter provided. (S. C. C. & R. C.)

375. If the property be movable property in the possession of the defendant, other than the property mentioned in Section 377, the attachment shall be made by actual seizure, and the proper Officer shall, except in the case of perishable articles, which he may sell at once, keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof. (S. C. C. & R. C.)

376. If the property be movable property to which the defendant is entitled subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant. (S. C. C. & R. C.)

377. If the property be a debt, not being a negotiable instrument, or a share in any public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debt and the debtor from making payment thereof to any person until the further order of the Court, or prohibiting the person in whose name the share may be standing from making any transfer of the share or receiving payment of any dividend thereon, and the proper Officer of the

Company or Corporation from permitting any such transfer or making any such payment, until such further order. (S. C. C. & R. C.)

378. If the property be immovable, the attachment shall be made by a written order prohibiting the defendant from alienating the property in any way and all persons from receiving the same by purchase, gift or otherwise. (R. C.)

379. In the case of movable property not in the possession of the defendant, a copy of the order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property. (S. C. C. & R. C.)

380. In the case of immovable property, the order shall be read aloud at some place on or adjacent to such property, and a copy of the order shall be fixed up in a conspicuous part of the Court-house. When the property is land or any interest in land, a copy of the order shall also be fixed up in the Office of the Collector of the District in which the land is situate. (R. C.)

381. If the property consist of money or of any security in deposit in any Court of Justice or in the hand of any Officer of Government, which is or may become payable or deliverable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or Officer requesting that the money or security and any interest or dividend becoming payable thereon may be held subject to the further orders of the Court: Provided that if such money or security is in deposit in a Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment or otherwise, shall be determined by the Court in which such money or security is in deposit. (S. C. C. & R. C.)

382. If the property consist of a negotiable instrument, the attachment shall be made by actual seizure, and the instrument shall be brought into Court and shall be held subject to the further orders of the Court. (S. C. C. & R. C.)

383. If the property consist of a debt, a copy of the order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall also be delivered or sent registered by post to the debtor, or to each debtor when there are more debtors than one. (S. C. C. & R. C.)

384. If the property consist of a share in the capital or joint-stock of any public Company or Corporation, a copy of the order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall also be delivered or sent registered by post to the proper Officer of the Company or Corporation. (S. C. C. & R. C.)

385. When an attachment shall have been made by actual seizure or by written order as aforesaid, and in the case of an attachment by written order, when it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift or otherwise, and any payment of debt or dividend or share to the defendant during the continuance of the attachment, shall be void as against the party on whose application the attachment was made, if the claim of such party shall not have been satisfied. (S. C. C. & R. C.)

386. When a debtor is prohibited under Section 377 from making payment of his debt to the party to whom the money is owing, he may pay the amount into Court, and such payment shall have the same effect as payment to the party entitled to receive the same. (S. C. C. & R. C.)

387. If the property attached is money or bank-notes, the Court may, at any time during the attachment, direct that such money or bank-notes or a sufficient part thereof be paid over to the party entitled under the decree to receive the same. (S. C. C. & R. C.)

388. The Court may direct that any immovable or movable property not being money or bank-notes which shall have been attached or such portion thereof as may seem necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized by such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same. (S. C. C. & R. C.)

389. When the property attached is land, if the defendant can satisfy the Court that there is reasonable ground to believe that the amount of the decree may be raised, by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land or of any other property belonging to the defendant, the Court may, on the application of the defendant, postpone the sale for such period as it may think proper, to enable him to raise the amount. In such case the Court shall grant a certificate to the defendant authorizing him within a period to be mentioned therein to sell or mortgage the land or to let it on lease. So long as such certificate shall remain in force, the provision contained in Section 385 shall not apply.

390. When the property attached consists of debts due to the defendant or of any immovable property, the Court may, instead of ordering the sale of the property, appoint a Manager thereof, with power to sue for the debts, and to collect the rents or other receipts and profits of the property, and to execute such instruments in writing as may be necessary, and to pay and apply such rents, profits or receipts towards the payment of the amount of the decree and costs. Instruments executed by a Manager appointed under this Section shall be of the same force as if executed by the person to whom the debts which such Manager is empowered to recover are due, or to whom the property belongs.

391. When a Manager shall be appointed under the last preceding Section, the Court may allow him such fee or commission on his receipts or on the rents and profits of the property by way of remuneration, and may grant him all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits as to the Court may seem proper. The Manager so appointed shall be bound to render correct accounts of his receipts and disbursements from time to time as the Court may direct.

392. When in any District in which sales of land paying revenue to Government in execution of decrees for money are ordinarily made by the Collector, the property attached consists of such land or of a share in such land, and the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector to make provision for such satisfaction in the manner recommended by the Collector, instead of proceeding to a sale of the land or share. In any case in which such authority is given, the Court may order that security be taken from the defendant for the amount of the decree.

393. If at the time of this Code coming into operation in any part of British India, any special Rules shall be in force in such part imposing conditions in respect to the sale of land in execution of decrees for money, the Local Government may continue such Rules in force or it may from time to time modify the same with the sanction of the Governor-General of India in Council. The Rules so in force shall, on this Code coming into operation in such part of British India, be published in the Official Gazette, and any modification of such Rules which may thereafter be made shall be published in like manner.

405. The proclamation shall be made on the spot where the property is attached by beat of drum or in such other mode as may be customary; and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment shall have taken place. When the property ordered to be sold consists of land or of any right or interest in land, a written notification shall also be affixed in the Office of the Collector of the District in which such land is situate and in the Court-house of the principal Civil Court of the District when the Court which ordered the sale is subordinate to such Court. If the Court shall so direct, such notification shall also be published in the Official Gazette and in some local newspaper. (S. C. C. & R. C.)

406. Except in the case of articles of a perishable nature (which may be sold at once), no sale shall take place until after the expiration of at least thirty days in the case of immovable property, and of at least fifteen days in the case of movable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale. (S. C. C. & R. C.)

407. The usual process for attachment and sale, when the property to be attached consists of any movable property other than a debt, may be issued either successively or simultaneously as the Court directing the sale may in each instance think proper. (S. C. C. & R. C.)

408. If the property sold consist of movable property, the price of each lot shall be paid for at the time of sale, or as soon after as the Officer holding the sale shall direct, and in default of payment the property shall forthwith be again put up and sold. On payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute. (S. C. C. & R. C.)

409. If the purchaser be the holder of the decree in execution of which the property is sold, the amount of his decree may be taken as payment in whole or in part, as the case may be, of the purchase money. (S. C. C. & R. C.)

410. No irregularity in the sale of movable property shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity at the hand of any other person may institute a suit against him for damages. (S. C. C. & R. C.)

411. If the property sold be immovable, the purchaser shall pay immediately after the sale a deposit of twenty-five per centum on

the amount of his purchase money to the Officer conducting the sale, and, in default of such deposit, the property shall forthwith be again put up and sold. The full amount of purchase money shall be paid by the purchaser before sunset of the fifteenth day after the sale of the property, exclusive of such day, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day: Provided that if the purchaser be the holder of the decree, the amount of his decree may be taken in whole or in part, as the case may be, of the purchase money. (R. C.)

412. In default of payment within the period mentioned in the last preceding Section, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is answerable ultimately completed be less than the price bid by such defaulting purchaser, the deficiency and all costs and expenses occasioned by such default shall be recoverable from him under the rules contained in this Chapter for the execution of a decree for money. (R. C.)

413. When the land sold in execution of a decree is a share of an undivided estate, if the lot shall have been knocked down to a stranger, any co-sharer other than the party liable for the amount of the decree, may claim to take the share sold at the sum at which the lot was knocked down: Provided that the claim be made before sunset on the day of sale and that the claimant fulfil all the conditions of the sale. (R. C.)

414. Every re-sale of immovable property in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale. (R. C.)

415. No sale of immovable property shall become absolute until it shall have been confirmed by the Court. (R. C.)

416. At any time within thirty days from the date of the sale of any immovable property, application may be made to the Court to set aside the sale on the ground of a material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of irregularity unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity. (R. C.)

417. If no such application as is mentioned in the last preceding Section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale. If such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. No suit shall lie to set aside or render void an order passed under this Section. (R. C.)

418. When a sale of immovable property is set aside, the purchaser shall be entitled to receive back his purchase money with or without interest as the Court shall direct. Payment of the purchase money and of the interest (if any) allowed by the Court shall be enforced under the rules provided by this Chapter for the execution of a decree for money. (R. C.)

419. When a sale of immovable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who shall have been declared the purchaser of the property, to the effect that he has purchased the right, title and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title and interest. (R. C.)

420. The certificate shall state the name of the person who, at the time of sale, is declared to be the purchaser, and no suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall lie. (R. C.)

421. When the property sold consists of any movable property in the possession of the defendant, or to the immediate possession of which he is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser. (S. C. C. & R. C.)

422. When the property sold consists of any movable property to which the defendant is entitled subject to a lien, the delivery to the purchaser shall be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser. (S. C. C. & R. C.)

423. When the property sold consists of any immovable property in the occupancy of the defendant or of some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery to be made by putting the purchaser

or any person whom he may appoint to receive delivery on his behalf, in possession of the property, and, if need be, by removing any person who may refuse to vacate the same. (R. C.)

424. When the property sold consists of immovable property in the occupancy of a tenant or other person entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or in such other mode as may be customary, at some convenient place, that the right, title and interest of the defendant have been transferred to the purchaser. (R. C.)

425. When the property sold consists of a debt not being a negotiable instrument or of a share in any Railway, Banking or other public Company or Corporation, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the Manager, Secretary or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment to any person except the purchaser. (S. C. C. & R. C.)

426. When the property sold consists of a negotiable instrument of which actual seizure has been made, the same shall be delivered to the purchaser of such security. (S. C. C. & R. C.)

427. If the endorsement or conveyance of the party in whose name a negotiable instrument or a share in any Railway, Banking or other public Company or Corporation is standing, shall be required to transfer such instrument or share, the Judge may endorse the instrument or the certificate of the share or may execute such other document as may be necessary. The endorsement or execution shall be in the following form or to the like effect:—"A. B. by C. D., Judge of the Court of (or as the case may be); in a suit by E. F. against A. B." Until the transfer of such instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any endorsement made or document executed or receipt signed as aforesaid shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself. (S. C. C. & R. C.)

428. If the purchaser of any immovable property sold in execution of a decree shall be obstructed by the defendant or any one on his behalf in obtaining possession of the property, the provisions of this Chapter relating to

resistance or obstruction to a party in whose favour a decree has been made in obtaining possession of the property adjudged to him, shall be applicable. (R. C.)

429. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person other than the defendant, claiming a right to the possession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if, in the delivery of possession to the purchaser, any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession, as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper. The party against whom the order is passed shall be at liberty to bring a suit to establish his right to the property at any time within one year from the date of such order. (R. C.)

430. When property is sold in execution of a decree, the holder of the decree on whose application such property was first attached, whether during the pendency of the suit or in execution of the decree, shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of another decree whether of a prior or of a later date. (S. C. C. & R. C.)

431. If, after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons who, prior to the order for such distribution, may have taken out execution of decrees against the same defendant and may not have obtained satisfaction thereof: Provided that when any property is sold subject to a mortgage, the mortgagee shall not be entitled in respect of such mortgage to share in any surplus arising from such sale. (S. C. C. & R. C.)

Surplus to be rateably distributed among decree-holders who have taken out execution prior to order for distribution.

Proviso where property is sold subject to a mortgage.

432. If it shall appear to the Court upon the application of the holder of a decree, that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose, if such other decree be a decree of the same Court; or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar decree from the Court by which the decree was made. (S. C. C. & R. C.)

Court may order proceeds of property attached under a decree obtained fraudulently, to be paid in satisfaction of another decree.

OF ARREST IN EXECUTION OF DECREES FOR MONEY.

433. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or, if he is possessed of any property, that he is willing to place at the disposal of the Court whatever property he possesses. (S. C. C. & R. C.)

434. The application shall contain a full account of all property of whatever description belonging to the applicant (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), whether it is in possession or in expectancy and whether held exclusively by himself or jointly with any other person, or by any other person in trust for him and of the place where such property is to be found, or shall state that, with the exceptions above mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner hereinbefore prescribed for subscribing and verifying plaints. (S. C. C. & R. C.)

Grounds of application for discharge.

Form of application.

435. When a person arrested under a warrant in execution of a decree for money shall, on being brought before the Court, apply for his discharge under Section 433, the Court shall examine the applicant in the presence of the holder of the decree or his Advocate, as to his then circumstances, and as to his future means of payment, and shall call upon the holder of the decree to show cause why he does not proceed against any property of which the defendant is possessed, and why the defendant should not be discharged. Should the holder of the decree fail to show such cause, the Court may direct the discharge of the defendant from custody. (S. C. C. & R. C.)

Procedure on application for discharge by a person arrested in execution of a decree for money.

436. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may, instead of ordering the immediate committal of the defendant to jail, leave him in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant depositing the fees of such Officer, which shall be at the same daily rate as the lowest rate charged in the same Court for serving process; or if the defendant furnish sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security. (S. C. C. & R. C.)

Pending enquiry, the defendant may be left in custody or released on good security.

437. The discharge of the defendant under Section 435 shall not protect him from being arrested again and imprisoned if it be shown that, in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred or removed any property, or had committed any other act of bad faith; nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed. (S. C. C. & R. C.)

OF THE EXECUTION OF DECREES BY IMPRISONMENT.

438. The imprisonment of the defendant in execution of a decree may be in the jail of the District in which the Court ordering the imprisonment is held, or, when such jail does not afford suitable accommodation, in any jail though not in such District where there may be suitable accommodation, which the Local Government may appoint for the confinement of persons or of any class of persons ordered to be imprisoned by the Courts of such District. (S. C. C. & R. C.)

439. When the defendant is committed to jail in execution of a decree, the Court shall fix whatever monthly allowance it shall consider sufficient with reference to the class of persons to which he belongs, for his subsistence, but (except as provided in the next succeeding Section) not exceeding four annas per day, which sum shall be supplied by the party on whose application the decree shall have been executed, to the proper Officer of the Court or of the jail in which the defendant may be confined, by monthly payments in advance before the first day of each month. The first payment shall be made for such portion of the current month as may remain unexpired before the defendant is committed to jail. (S. C. C. & R. C.)

440. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown. (S. C. C. & R. C.)

441. Sums disbursed by the holder of a decree for the subsistence of the defendant in jail shall be added to the costs of the decree, and shall be recoverable by the attachment and sale of the defendant's property under the rules contained in this Chapter for the execution of a decree for money: Provided that the defendant shall not be detained in jail or arrested on account of any sum so disbursed. (S. C. C. & R. C.)

442. The defendant shall be discharged from jail at any time, by order of the Court, on the decree being fully satisfied, or at the request of the person on whose application he shall have been imprisoned, or on such person omitting to pay the allowance as hereinbefore directed. (S. C. C. & R. C.)

443. No person shall be imprisoned in execution of a decree for a longer period than two years; or for a longer period than six months if the decree be for the payment of a sum of money not exceeding five hundred rupees; or for a longer period than three months if the decree be for the payment of a sum of money not exceeding fifty rupees. (S. C. C. & R. C.)

444. Any person imprisoned in execution of a decree may at any time apply to the Court which ordered his imprisonment for his discharge on the ground of his inability to pay the amount of the decree in execution of which he is imprisoned. (S. C. C. & R. C.)

445. The application shall contain a full account of all property of whatever nature belonging to the applicant (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), whether such property is in possession or in expectancy, and whether it is held exclusively by himself or jointly with any other person, or by any other person in trust for him, and of the places where such property is to be found. The application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints. (S. C. C. & R. C.)

446. On such application being made, the Court shall cause the holder of the decree to be furnished with a copy of the account of the property of the defendant, and shall fix a reasonable period within which the holder of the decree may cause such property or any part thereof to be attached and sold, or may furnish proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property or his right or interest in any property or fraudulently transferred or removed property, or committed any other act of bad faith. (S. C. C. & R. C.)

447. If within such period the holder of the decree shall fail to furnish such proof, the Court shall order the defendant to be discharged from jail. (S. C. C. & R. C.)

448. If the holder of the decree shall, within the time specified or at any subsequent period, prove to the satisfaction of the Court that the defendant has been guilty of any of the acts mentioned

in Section 446, the Court shall, at the instance of the holder of the decree, either retain the defendant in confinement, or commit him to jail, as the case may be, unless he shall have already been in confinement two years on account of the decree.

And he may be further dealt with criminally.

The Court may, if it think proper, send the defendant to the Magistrate to be dealt with according to law. (S. C. C. & R. C.)

449. A defendant once discharged from jail shall not again be imprisoned on account of the same decree, except under the operation of Section 437 or the last preceding Section; but his property shall continue liable to attachment and sale until the decree shall be fully satisfied, unless the decree shall be for a sum of money not exceeding twenty Rupees. (S. C. C. & R. C.)

450. If the decree shall be for a sum of money less than one hundred Rupees, the Court may declare a defendant who shall be discharged as aforesaid absolved from further liability under such decree. (S. C. C. & R. C.)

451. Questions regarding the amount of any mesne profits which by the terms of the decree shall have been reserved for adjustment in the execution of the decree, or of any mesne profits or interest which may be payable in respect of the subject-matter of a suit between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree, and any other questions arising between the parties to the suit in which the decree was passed and relating to the execution of the decree, shall be determined by order of the Court executing the decree, and not by a separate suit. (S. C. C. & R. C.)

OF PAYMENT OF THE AMOUNT OF DECREES FOR MONEY BY INSTALMENTS.

452. The Court may order that the amount of a decree for money be paid by instalments on such terms as to the payment of interest, the attachment of the property of the defendant, or the taking of security from him or otherwise as it may deem proper, notwithstanding that the decree make no provision for the payment by instalments of the amount decreed. (S. C. C. & R. C.)

OF SERVICE OF PROCESS IN MILITARY CANTONMENTS.

453. If, in the execution of a decree, process is to be executed within the limits of a Cantonment, Garrison, Military Station or Military Bazar, the Officer entrusted with the execution of such process shall carry the same to the Commanding Officer, or in his absence to the senior Officer actually present in the Cantonment, Garrison, Station or Military Bazar; and

the Commanding Officer or such senior Officer, upon such process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested if within the limits of his command, and delivered, according to the exigency of the warrant, to the Officer charged with the execution thereof. (S. C. C. & R. C.)

OF EXECUTION OF A DECREE BEYOND THE LOCAL LIMITS OF THE JURISDICTION OF THE COURT BY WHICH IT WAS PASSED.

454. A decree of any Court in British India or established by the authority of the Governor-General of India in Council in the Territories of any foreign Prince or State in India which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, may be executed in the manner hereinafter provided, within the jurisdiction of any other such Court: Provided that no Court may be executed within the jurisdiction of another Court. Proviso as to Court of Small Causes shall have power to execute the decree of any other Court except a decree for money of an amount exclusive of costs not exceeding the pecuniary jurisdiction of the Court of Small Causes to which the application for the execution of the decree of another Court is made. (S. C. C. & R. C.)

455. The holder of a decree may apply to the Court whose duty it is to execute the same to send a copy of the decree, together with a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of such Court, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted, and a copy of any order for execution of the decree that shall have been passed, to the Court by which the holder of the decree wishes it to be executed. (S. C. C. & R. C.)

456. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared and shall send the same by post to the Court by which the holder of the decree wishes the decree to be executed, if such Court be within the same District, or otherwise to the principal Civil Court of original jurisdiction in the District in which the holder of the decree wishes that execution may take place. Such copies and certificate shall be signed by the Judge or Registrar or Clerk of the Court, and shall be sealed with the seal of the Court. (S. C. C. & R. C.)

457. The Court to which such copies and certificate are sent shall cause the same to be filed, without any proof of the decree or order for execution, or of the copies thereof or of the seal or signature of any Court, or of the signature of any Judge or Officer, unless the Court shall, under any peculiar circumstances to be specified in an order, require such proof. (S. C. C. & R. C.)

458. The copy of the decree and of any order for execution, when filed in the Court to which such copy shall have been sent for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto to which such principal Civil Court may entrust the execution of the same. (S. C. C. & R. C.)

459. When the holder of a decree which shall have been sent under the foregoing provisions for execution by a Court other than the Court which passed the decree, shall apply for execution of the decree to the Court to which it shall have been so sent, such Court, or any subordinate Court to which the execution of the decree may be entrusted, shall proceed to execute the decree according to the provisions of this Chapter so far as the same can be made applicable, or to its own rules in the like cases when such rules exist and have the force of law: Provided that such Court shall have no power to enquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was passed had no jurisdiction to pass it. (S. C. C. & R. C.)

460. If the Court to which the decree is transmitted for execution be a High Court, the decree shall be executed by such Court in the same manner as if the decree had been passed by such Court in the exercise of its ordinary original Civil jurisdiction: Provided that no decree shall be transmitted for execution by a High Court if the decree was made by a Court of Small Causes, or in a case cognizable by a Court of Small Causes.

461. The Court to which the holder of the decree shall so apply, shall have the same powers in executing the decree as the Court by which it was passed would have had if the decree had been capable of being executed within the jurisdiction of the said Court. (S. C. C. & R. C.)

462. The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if the decree had been made by such Court. (S. C. C. & R. C.)

463. The Court to which such application is made or referred as aforesaid, may, upon sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by

which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or execution which such Court of first instance or appellate Court might have made if execution had been issued by such Court of first instance or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application. (S. C. C. & R. C.)

464. Before passing an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from, or impose such conditions upon, the defendant, as it may deem reasonable. (S. C. C. & R. C.)

465. Any order of the Court in which the decree was passed or of such Court of appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of any process issued by such last mentioned Court. (S. C. C. & R. C.)

466. No discharge of a defendant under the provisions of Section 463, shall prevent such defendant from being retaken in execution of the decree. (S. C. C. & R. C.)

467. The orders of a Court for executing the decree of another Court shall be subject to the same rules in respect of appeal, as if the decree had been originally passed by the Court making such order.

OF THE ENFORCEMENT OF REGISTERED BONDS.

468. A bond which shall have been registered under the provisions of Act XVI of 1864 (to provide for the Registration of Assurances) may be enforced without a suit: Provided that the parties shall, at the time of the registration thereof, have signified their assent to its being so enforced, and that such assent shall have been recorded at the foot of the memorandum of registration on such bond at the time it was registered. (S. C. C.)

469. No bond shall be enforced under the provisions of the last preceding Section unless application for its enforcement be made within twelve months from the date on which the whole amount secured thereby became payable: Provided that nothing herein contained shall be construed to

prevent the obligee of a bond payable by instalments from suing on the bond before all the instalments shall have become due. (S. C. C.)

470. Any person who is desirous of enforcing a bond under Section 468 may apply to any Court which would have had jurisdiction to try a suit on such bond for the enforcement of the same. (S. C. C.)

Court to which application may be made for enforcing bonds.

471. Such application shall be treated as an application for the execution of a decree, and the foregoing provisions of this Chapter relating to execution of decrees shall, except as hereinafter provided, apply in such case so far as shall be practicable. (S. C. C.)

Application to be treated as for execution of a decree.

472. The Court to which such application is made shall cause a notice to be served on the person against whom the enforcement is applied for, calling on him to show cause within a time to be specified in the notice, why execution for the amount stated in the application should not be issued against him. (S. C. C.)

Procedure of Court on receipt of application.

473. If the person making the application shall satisfy the Court that the party against whom the claim is made is about to leave the jurisdiction of the Court, or to dispose of or remove his property from the jurisdiction of the Court in order to evade payment of the money claimed to be due from him, the Court may issue process of attachment against the person or property of such party. (S. C. C.)

Attachment may issue against debtor about to quit jurisdiction, or to move property therefrom.

474. Whenever such attachment is applied for, the provisions contained in Chapter IV relating to arrest and attachment before judgment shall be applicable. (S. C. C.)

Chapter IV applicable to attachments applied for.

475. If it appear to the Court that the arrest of the person against whom the claim is made or the attachment of his property was applied for on insufficient grounds, or if the application for enforcing the bond is disallowed and it appear to the Court that there was no ground for making the application, the Court may, on the application of the party against whom the claim is made, award in its order against the party making the application such sum, not exceeding one thousand rupees, as it may deem a reasonable compensation to the party against whom the claim is made for his arrest or the attachment of his property: Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to award in an action for damages. (S. C. C.)

Compensation to person against whom claim is made if arrest or attachment of property be applied for on insufficient grounds.

Limit to compensation.

476. An award of compensation made under the last preceding Section shall bar any suit for damages in respect of such arrest or attachment, and may be enforced under the rules contained in this Chapter for the execution of decrees, and all the provisions of this Code shall be applicable to the proceedings in such execution. (S. C. C.)

Award of compensation to bar suit for damages.

477. If the person against whom execution is applied for shall attend within the time mentioned in the notice, and show cause why execution should not be issued against him, the Court shall enquire into his objection, and pass such order as it shall think proper. (S. C. C.)

Procedure when person against whom execution is claimed appears and shows cause against issue of execution.

478. No person shall be allowed to plead in bar of execution any plea other than that he was not a party to the registration of the bond, or that the Court has not jurisdiction, or that the application is barred in consequence of its not having been made within the time allowed, or that the bond has been paid or has been satisfied in some other way, or is for any reason no longer in force, or that the amount claimed exceeds that which is remaining due, whether for principal or interest, or, when application is made against a person as the representative of a deceased person, that he is not such representative, or that he has never received any assets from the deceased, or, if the representative have received assets, that he has paid them away or that they are not sufficient to discharge the debt. (S. C. C.)

Pleas in bar of execution.

479. The Court to which application is made for the enforcement of a bond under Section 468 may, for any sufficient reason, instead of granting such application, order that a suit shall be brought on such bond. (S. C. C.)

Court may direct institution of suit, instead of enforcing bond under Section 468.

480. No suit between the same parties, or persons claiming under them respectively, shall be entertained on any bond the enforcement of which shall have been refused by the Court on an application for enforcement made under Section 468 otherwise than as barred by lapse of time, unless the Court shall have refused the application by reason of its not having been preferred within the period prescribed by Section 469, or shall have directed a suit to be brought under the last preceding Section. (S. C. C.)

Effect of Court refusing to enforce bond under Section 468 or 469.

481. Nothing in the foregoing Sections shall be held to prevent the obligee of a bond, registered as aforesaid, from instituting a suit to recover the amount subject to the law of limitations, instead of applying for the enforcement of the bond under the foregoing provisions. (S. C. C.)

Foregoing provisions not to bar suit by obligee.

482. The provisions of Chapter IV relating to the summoning, attendance, and examination of witnesses, and to the remuneration of and penalties to be imposed upon witnesses, shall apply to wit-

Attendance, examination and punishment of witnesses required to give evidence.

nesses required to give evidence or to produce documents under the provisions of this Chapter. Any penalty to which a witness may be liable under this Section shall be imposed by the Court from which the process was issued. (S. C. C. & R. C.)

CHAPTER VI.

OF PAUPER SUITS.

483. A suit may be brought *in forma pauperis* in the Court having jurisdiction over the claim, subject to the following rules. (S. C. C.)

484. No suit shall be brought *in forma pauperis* to recover money on account of damages for loss of caste, slander, abusive language or assault. (S. C. C.)

485. The application for permission to institute a suit *in forma pauperis* shall be by petition written on stamp paper of the value of one Rupee. (S. C. C.)

486. The petition shall contain the particulars required by Section 53 in regard to plaints in suits, and shall have annexed to it a Schedule of any movable or immovable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner prescribed by this Code for the subscription and verification of plaints. (S. C. C.)

487. The petition shall be presented to the Court by the petitioner in person; but if he satisfy the Court that he is prevented by sickness from attending the Court in person, or if the petitioner be a female who, according to the custom and manners of the country, ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person. (S. C. C.)

488. If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject it. (S. C. C.)

489. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or his agent when the petitioner is allowed to appear by agent, regarding the merits of the claim and the property of the petitioner. When the petition is presented by an agent, the Court may, if it think proper, order that the petitioner be examined by a Commission in the manner in

which the examination of an absent witness may be taken under the provisions of this Code. (S. C. C.)

490. It it appear to the Court upon such examination that the defendant, or the subject-matter of the suit, is not within the jurisdiction of the Court, or that the right of action is barred by lapse of time, or that the allegations of the petitioner do not constitute a ground of action, or, if none of the foregoing objections exist, that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamp duty prescribed by any law for the plaint, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue *in forma pauperis*. (S. C. C.)

491. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day, of which at least ten days' previous notice shall be given to the opposite party, for receiving such evidence as the petitioner may adduce in proof of his being a pauper and for hearing any evidence which the opposite party may bring forward in disproof of his pauperism. (S. C. C.)

492. On the day appointed for the hearing or as soon after as may be convenient, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party, and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue *in forma pauperis*. (S. C. C.)

493. Either party may, on application to the Court made in sufficient time before the day fixed for the hearing of the case, obtain a summons to any person to attend either to give evidence or to produce a document. (S. C. C.)

494. Previously to passing a final order in the case, the Court may, if it think fit, institute a local enquiry in the manner laid down in Chapter IV regarding the property of the petitioner or regarding the amount or value of any property claimed. (S. C. C.)

495. If the application of the petitioner be granted, it shall be numbered and registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under Chapter I except that the plaintiff shall not be liable to stamp duty in respect of any petition presented by an Advocate, or other person authorized to sue. (S. C. C.)

496. On the decision of the suit, the Court shall calculate the amount of stamp duty which would have been paid by the plaintiff if he had not been permitted to sue *in formd pauperis* and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code. (S. C. C.)

497. The refusal to allow the petitioner to sue *in formd pauperis* shall be a bar to any subsequent application of the like nature in respect of the same cause of action; but the plaintiff shall be at liberty to institute a suit in the ordinary manner in respect of such cause of action, unless precluded by the law of limitations. (S. C. C.)

498. The provisions of Chapter IV relating to the summoning, attendance, and examination of witnesses, and to the remuneration of and penalties to be imposed upon witnesses, shall apply to witnesses and other persons required to give evidence or to produce documents under the provisions of this Chapter. (S. C. C.)

CHAPTER VII.

REFERENCE TO ARBITRATION.

499. If the parties to a suit desire that any matter in difference between them in the suit shall be referred to arbitration, they may, at any time during the pendency of the suit, apply to the Court for an order of reference. (S. C. C. & R. C.)

500. The application shall be in writing, and shall bear the stamp prescribed for petitions to the Court where a stamp is required for petitions. (S. C. C. & R. C.)

501. The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them. (S. C. C. & R. C.)

502. If the parties cannot agree with respect to the nomination of the arbitrator, or if the person whom they nominate shall refuse to accept the arbitration and the parties are desirous that the nomination shall be made by the Court, the Court shall nominate the arbitrator. (S. C. C. & R. C.)

503. The Court shall, by an order, refer to the arbitrator the matter in difference which he may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and specify such time in the order. (S. C. C. & R. C.)

504. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or if the number of arbitrators be uneven, by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed between the parties; or, if they cannot agree, as the Court may determine. If the number of arbitrators is uneven, in the absence of a declaration in the reference that all the arbitrators shall concur in the award, the decision shall be with the majority. (S. C. C. & R. C.)

505. If the arbitrator, or where there are more arbitrators than one, any of the arbitrators, or the umpire, shall die, or refuse, or neglect, or become incapable to act, the Court, if the parties so desire, may appoint a new arbitrator or umpire in the place of the person so dying, or refusing or neglecting or becoming incapable to act. (S. C. C. & R. C.)

506. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. (S. C. C. & R. C.)

507. An arbitrator or umpire appointed under either of the last two preceding Sections shall have the like powers to act in the reference, as if his name had been inserted in the order of reference. (S. C. C. & R. C.)

508. The Court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire may desire to examine, as the Court is authorized to issue in suits tried before it. Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or being guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court. (S. C. C. & R. C.)

509. If the arbitrator shall not complete the award within the period specified in the order, from the want of the necessary evidence or information or from any other cause, the Court may grant a further time, and may from time to time enlarge the period for the delivery of the award, if it shall think proper. (S. C. C. & R. C.)

510. When an umpire shall have been appointed, it shall be lawful for him to enter on the reference in the place of the arbitrators, if they shall have allowed their extended time to expire without making an award, or, when they shall have delivered to the Court or to the umpire a notice in writing, stating that they cannot agree or that they are equally divided. (S. C. C. & R. C.)

511. When an award in a suit shall have been made, the person or persons who made it shall sign and file it in Court together with any documents which may have been filed; and notice of the filing of the award shall be given to the parties. (S. C. C. & R. C.)

512. Upon any reference by an order of Court, and if it is not provided to the contrary, the arbitrator or umpire may state his award as to the whole or any part thereof in the form of a special case for the opinion of the Court. (S. C. C. & R. C.)

513. The Court may, on the application of either of the parties, modify or correct an award where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred, or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision. (S. C. C. & R. C.)

514. The Court may also, on the application of either of the parties or of the arbitrator or umpire, make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them. (S. C. C. & R. C.)

515. In any of the following cases the Court shall have power to remit the award or any matter referred to arbitration to the reconsideration of the same arbitrator or umpire, upon such terms as it may think proper; that is to say:—

(1). If the award has left undetermined any of the matters referred to arbitration, or if it determine any matter not referred to arbitration.

(2). If the award is so indefinite as to be incapable of execution.

(3). If an objection to the legality of the award is apparent upon the face of it. (S. C. C. & R. C.)

516. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrator or umpire, or of either party having been guilty of fraudulent

concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire, or of the award having been made after the issue of an order by the Court superseding the arbitration and recalling the suit, or of the award not having been made within the period or further period allowed by the Court: Provided that no award shall be set aside on the last mentioned ground, unless it be proved to the satisfaction of the Court that the delay in completing the award arose from the corruption or misconduct of the arbitrator or umpire. (S. C. C. & R. C.)

517. The application to set aside an award shall be made within fifteen days after notice of the filing of the award shall have been given to the parties as provided in Section 511, and shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions. (S. C. C. & R. C.)

518. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to give judgment according to the award or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and upon the judgment so given a decree shall follow and shall be enforced in the manner provided in this Code for the execution of decrees. (S. C. C. & R. C.)

519. When any persons shall by an instrument in writing agree that any difference between them or any of them shall be referred to the arbitration of any person named in the agreement or to be appointed by any Court having jurisdiction in the matter to which the agreement relates, application may be made by the parties thereto or any of them, that the agreement be filed in such Court.

520. The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

521. On such application being made, the Court shall direct notice thereof to be given to any of the parties to the agreement other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

522. If no sufficient cause be shewn against the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon.

523. The foregoing provisions of this Chapter, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court under the last preceding Section, and to the award of arbitration and to the enforcement of the decree based thereupon.

524. When any matter has been referred to arbitration without the intervention of a Court of Justice and an award has been made, any person interested in the award may, within six months from the date of the award, apply to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The application shall be written on paper bearing the stamp prescribed for petitions to the Court where a stamp is required for petitions, and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

525. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as a decree upon an award made under the provisions of this Chapter.

CHAPTER VIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

526. Parties claiming to be interested in the decision of any question of fact or law, may enter into an agreement which shall be subject to the same stamp duty as prescribed for plaints in suits, that such question be stated in the form of a special case for the opinion of the Court; or that upon the finding of the Court in the affirmative or negative of such question a sum of money fixed by the parties or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, movable or immovable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform or refrain from doing or performing some particular act specified in the agreement. (S. C. C.)

527. If the agreement is for the delivery of any property or for the doing or performing or the refraining from doing or performing any

particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement. (S. C. C.)

528. The agreement may be filed in any Court having jurisdiction in the matter to which it relates, and, when so filed, shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the other or others of them as defendant or defendants; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented. (S. C. C.)

529. After the agreement shall have been filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein. (S. C. C.)

530. The case shall be set down for hearing as a suit instituted under Chapter IV, the provisions of which shall apply to such suit so far as the same are applicable. If the Court shall be satisfied, after an examination of the parties or taking such evidence as it may deem proper, that the agreement was duly executed by them and that they have a *bona fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try or hear the same and deliver judgment thereon, and upon the judgment so given a decree shall follow, and shall be enforced in the manner provided in this Code for the execution of decrees. (S. C. C.)

CHAPTER IX.

OF REGULAR APPEALS.

531. Unless when otherwise expressly provided in this Code or by any other law, a regular appeal shall lie from the decrees or from any part of the decrees, including the costs, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. Provided that no appeal shall be admitted in respect of costs alone, unless upon the face of the decree or order of the Court below it shall appear that in granting or refusing the costs the Court proceeded upon a mistake or misapprehension. A regular appeal shall also lie from orders rejecting or returning plaints under Section 58 Clause 4 or 5, or Section 59 Clause 4, or Section 60 Clause 1, or from a decree made in conformity with an award under Section 518. No appeal shall lie from a decision or order passed in any suit under the fifteenth Section of Act XIV of 1859 (to provide for the limitation of suits).

532. If the appeal lie to the High Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court.

545. If the grounds of objection, when allowed to be filed separately, be not filed within the prescribed period or within the further time to which such period may have been extended by the Court, the appeal shall be struck off the file.

546. If the memorandum of appeal or the grounds of objection be not drawn up in the manner hereinbefore prescribed, or do not bear the proper stamp, such memorandum or grounds may be rejected or returned to the appellant for the purpose of being amended within a time to be fixed by the Court.

547. If there be more plaintiffs or more defendants than one in a suit, and the decree appealed against proceed on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants as the case may be.

548. If it appear to the Court at the hearing of an appeal, that any person who was a party to the suit in the Court against whose decree the appeal is made, and who has not been made a party to the appeal, may be affected by the result of the appeal, the Court may adjourn the hearing of the appeal to a future day to be fixed by the Court, and direct that such person shall be made a respondent in the appeal. In such case the Court shall issue a notice to such person in the manner hereinafter provided for the service of a notice on a respondent to appear and answer the appeal.

OF STAYING AND EXECUTING DECREES UNDER APPEAL.

549. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against the decree; but the Appellate Court may, for sufficient cause shown, order the execution to be stayed.

550. If an application be made for the execution of a decree which is given to appeal, before the time allowed for appeal has expired, and the Court which passed the decree has not received intimation of an appeal having been preferred therefrom, the Court may, if sufficient cause be shown, stay the execution. Before making an order to stay execution, the Court shall require security to be given by the appellant against whom the decree was passed for the satisfaction of the decree or order of the Appellate Court.

551. If an order is made for the execution of a decree against which an appeal has been preferred, the Court which passed the decree may require security to be given for the restitution of any property which shall be taken in execution of the decree or of the value of such property and for the due performance of the decree or order of the Appellate Court, or the Appellate Court may direct the Court which passed the decree to take such security.

552. The Appellate Court may direct that execution of a decree against which an appeal has been preferred, shall be stayed on such terms as to the taking of security as it may think proper.

553. No such security as is mentioned in the last three preceding Sections shall be required from the Government or from an Officer of the Government as such Officer.

OF PROCEDURE IN APPEAL FROM DECREES.

554. When a memorandum of appeal is presented within the time allowed, the Appellate Court or the proper Officer of that Court, if the memorandum be duly stamped and in the prescribed form, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose. Such book shall be called the Register of Appeals and shall be in the form contained in the Schedule E hereunto annexed.

555. The Appellate Court may, at its discretion, demand security for costs from the appellant before the respondent is called upon to appear and answer: Provided that the Court shall demand such security in all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immovable property within British India independent of the property to which the appeal relates. If such security be not furnished at the time of presenting the memorandum of appeal or within such time as the Court shall order, the Court shall reject the appeal.

556. When the memorandum of appeal has been registered or when the grounds of objection are filed, the Appellate Court shall send notice of the appeal to the Court against whose decree the appeal is made. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court to which such notice is sent shall, upon the receipt thereof, transmit with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

557. Either party may make an application in writing to the Court against whose decree the appeal is made, specifying any papers of which he requires copies to be made and deposited in such Court, and copies of such papers shall be prepared at the expense of the applicant, and shall be deposited accordingly.

Either party may have copies of exhibits made and deposited in Court whose decree is appealed against.

papers shall be prepared at the expense of the applicant, and shall be deposited accordingly.

558. A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear and answer the appeal on such day.

Day for hearing appeal.

fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear and answer the appeal on such day.

559. Notice of the day which has been fixed for hearing the appeal shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Court against whose decree the appeal is made, and shall be served on the respondent in the manner provided in Chapter IV for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice. The Appellate Court may itself cause the notice to be served on the respondent under the rules above-mentioned, instead of sending the notice to the Court against whose decree the appeal is made, whenever it shall appear convenient to do so.

Publication and service of notice of the day fixed for hearing appeal.

Appellate Court may itself cause notice to be served.

560. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the appeal will be heard *ex-parte*. Provided that, if the respondent has appointed an Advocate to appear in his behalf in the Appellate Court, the service of the notice on such Advocate shall be sufficient.

Service of notice on Advocate.

the service of the notice on such Advocate shall be sufficient.

561. If on the day fixed for hearing the appeal or any other day subsequent thereto to which the hearing of the appeal may be adjourned, the appellant shall not attend, the appeal shall be dismissed for default. If the appellant shall attend and the respondent shall not attend, the appeal shall be heard *ex-parte* in his absence.

Dismissal of appeal for appellant's default.

Hearing appeal *ex parte*.

562. If on the day fixed for hearing the appeal it shall be found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit cost of notice.

Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.

issuing the notice, the Court may order that the

appeal be dismissed : Provided that no such order shall be passed, although the notice shall not have been served upon the respondent, if on the day fixed for hearing the appeal the respondent shall appear in person or by an Advocate, or by a duly authorized agent.

Proviso.

appeal be dismissed : Provided that no such order shall be passed, although the notice shall not have been served upon the respondent, if on the day fixed for hearing the appeal the respondent shall appear in person or by an Advocate, or by a duly authorized agent.

563. If an appeal be dismissed for default the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause, from attending when the appeal was called on for hearing, the Court may re-admit the appeal on such terms as to costs or otherwise as to the Court may seem just.

Re-admission of appeal dismissed for default.

the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause, from attending when the appeal was called on for hearing, the Court may re-admit the appeal on such terms as to costs or otherwise as to the Court may seem just.

564. The respondent, though he may not have appealed against any part of the decree, may, upon the hearing, take any objection to the decree, provided, he shall give seven days' notice in writing of such objection. Such writing shall be in the form of a memorandum, and shall be on the stamp paper prescribed for petitions to the Court, and the provisions of Sections 537, 538 and 539, so far as they relate to the form and contents of the memorandum of appeal, shall be applicable to such memorandum.

Upon the hearing, respondent may object to decree as if he had preferred a separate appeal.

Such writing shall

Previous notice in writing of objections.

of Sections 537, 538 and 539, so far as they relate to the form and contents of the memorandum of appeal, shall be applicable to such memorandum.

565. The Appellate Court, after hearing the parties or their Advocates and referring to any part of the proceedings, whether held in appeal or in the Court against whose decree the appeal is made, to which a reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their Advocates.

Judgment when and where to be pronounced.

referring to any part of the proceedings, whether held in appeal or in the Court against whose decree the appeal is made, to which a reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their Advocates.

566. The judgment shall be written in the English language; but if English shall not be the vernacular language of the Judge, and the Judge shall not be able to write an intelligible judgment in English, the judgment shall be written in the vernacular language of the Judge.

In what language to be written.

the judgment shall be written in the vernacular language of the Judge.

567. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall, if any party so require, be translated into such language, and the translation shall be signed by the Judge or Judges.

When to be translated.

require, be translated into such language, and the translation shall be signed by the Judge or Judges.

568. The judgment of the Appellate Court shall contain the points for determination, the decision thereupon, and the reasons for the decision; and, shall at the time that it is pronounced be dated and signed by the Judge or by the Judges concurring therein.

Contents of judgment.

the decision thereupon, and the reasons for the decision; and, shall at the time that it is pronounced be dated and signed by the Judge or by the Judges concurring therein.

569. When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

570. The judgment may be for confirming or reversing or modifying the decree of the Court against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order which shall be passed in appeal, the Appellate Court may pass a decree or order accordingly: Provided that no portion of the stamp duty paid on the memorandum of appeal shall be refunded by reason of an adjustment or compromise between the parties to the appeal.

571. No decree shall be reversed or modified, nor shall any case be remanded in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court.

572. If the Court against whose decree the appeal is made shall, without going into the merits, dispose of the suit upon any preliminary point so as to exclude any evidence of fact which shall appear to the Appellate Court essential to the rights of the parties, and the decree upon such preliminary point shall be reversed in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree or order in appeal to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the Register, and to proceed to investigate the suit on its merits, and pass a decree thereon.

573. It shall not be competent to the Appellate Court to remand a case for a second decision, except as provided in the last preceding Section.

574. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall finally determine the case notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

575. If the Court against whose decree the appeal is made shall have omitted to raise or try any issue or to determine any question of fact which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence

upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and such Court shall proceed to try such issue, and shall return to the Appellate Court its finding thereon together with the evidence.

576. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, file a memorandum of objections to the finding. Such memorandum shall be on the stamp paper prescribed for petitions to the Court, and shall set forth concisely and under distinct heads and without argument or narrative the grounds of objection to the finding, which grounds shall be numbered consecutively. After the expiration of the period fixed for filing such memorandum, the Appellate Court shall proceed to determine the appeal.

577. The parties to an appeal shall not produce additional evidence, whether oral or documentary, in the Appellate Court; but if it appear that the Court against whose decree the appeal is made refused to admit evidence which ought to have been admitted, or if the Appellate Court require any document to be produced or any witness to be examined to enable it to pronounce judgment or for any other substantial cause, the Appellate Court may allow such document to be received or such witness to be examined, whether such document or witness shall or shall not have been previously produced or examined: Provided that, whenever additional evidence is admitted by an Appellate Court, the reason for the admission shall be recorded on the proceedings of the Court.

578. Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence, or the Appellate Court may require the Court against whose decree the appeal is made or any other Court, or may empower any person, to take such evidence, and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such additional evidence shall be taken.

579. In all cases where additional evidence is permitted to be taken, the Appellate Court shall define the points to which the evidence is to be confined, and record the same on its proceedings.

580. The decree of the Appellate Court shall bear date the day on which the judgment was pronounced. The decree shall contain the number of the appeal, and the memorandum of appeal, including the names and description of the appellant and respondent, and shall specify

clearly the relief granted or other determination of the appeal. The decree shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the suit are to be paid. The decree shall be signed by the Judge or Judges who passed it, and shall be sealed with the seal of the Court.

581. Where there are more Judges than one, if there be a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

Judge dissenting from judgment need not sign decree.

582. Certified copies of the judgment and decree shall be furnished to the parties, in the same manner as provided in Chapter IV in regard to the decrees of Courts of original jurisdiction.

Copies of judgment and decree to be furnished to parties.

583. A copy of the decree or other order disposing of the appeal, certified by the Appellate Court or the Registrar or Clerk of the Court, and sealed with the seal of the Court, shall be sent to the Court which passed the decree appealed against, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the Register of the suit.

Certified copy of the decree to be transmitted to the Court whose decree is appealed against.

584. Unless when otherwise provided in this Code or by any other law, the Appellate Court shall have the same powers in regular appeals in respect to adjournments, granting of time, arrest or attachment before judgment, issue of injunctions, examination of the parties or their Advocates and of witnesses or other persons, issue of Commissions, award of interest or mesne profits or otherwise, as are vested by this Code in Courts of original jurisdiction in respect of suits instituted under Chapter IV, the provisions of which and of Chapter VII relating to arbitration, unless when otherwise provided, shall apply to regular appeals so far as the same are applicable.

Appellate Court to have same powers as Courts of original jurisdiction.

585. If in the hearing of a regular appeal in which the decree or order which shall be passed in such appeal is made final by Section 596, any question of law or usage having the force of law, or the construction of a document which construction may affect the merits shall arise, on which the Court trying the appeal shall entertain reasonable doubt, the Court may, either of its own motion or on the application of any of the parties to the suit, draw up a statement of the case, and submit such statement with its own opinion for the decision of the High Court.

Reference of question to High Court.

586. The Court may proceed in the appeal notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no exe-

Court may pass decree contingent upon opinion of High Court.

cution shall be issued in any case in which such reference shall be made to the High Court, until the receipt of the order of that Court.

587. References made for the opinion of the High Court under Section 585, shall be heard by two or more Judges of that Court.

Two or more Judges of High Court to hear reference.

588. The High Court shall fix an early day for the hearing of the reference, and notice of such day shall be fixed up in the Court-house.

High Court to fix day for hearing and to notify same.

589. The parties to the appeal in which the reference is made may appear and be heard in the High Court in person or by an Advocate.

Parties may appear and be heard in person or by Advocate.

590. The High Court, when it has heard and determined the point referred to it, shall transmit a copy of its judgment under the seal of the Court and the signature of the Registrar, to the Court by which the reference was made, and such Court shall, on the receipt thereof, proceed to dispose of the appeal in conformity with the decision of the High Court.

Judgment of High Court to be transmitted, and case disposed of accordingly.

591. Costs, if any, consequent on a reference for the opinion of the High Court, shall be costs in the appeal.

Costs of reference to High Court.

592. When a party in whose favour a decree is passed in regular appeal is desirous of obtaining execution of the same, he shall apply to the Court which passed the decree against which the appeal was preferred, and such Court shall proceed to execute the decree passed in appeal, in the manner and according to the rules contained in Chapter V for the execution of decrees in suits.

Execution of decree of Appellate Court.

CHAPTER X.

OF SPECIAL APPEALS.

593. Unless when otherwise provided in this Code or by any other law, a special appeal shall lie to the High Court from all decrees passed in regular appeal by the subordinate Courts on the ground of the decision being contrary to some law or usage having the force of law, or its having failed to determine some issue of law or usage having the force of law, or on the ground of a substantial error or defect in law in the procedure as prescribed by this Code or any other law which may have produced error or defect in the decision of the case upon the merits.

Special appeals to High Court.

594. If a suit in which a reference has been made to the District Court under Section 243 come before such Court in regular appeal, it may be a ground of special appeal from the decree passed by the District Court

Special appeal from decree by District Court on reference under Section 243.

on such regular appeal, that the opinion given by the District Court on the question of the law of the religion or established custom referred to such Court is erroneous or that the District Court had wrongly interpreted such law or custom.

Special appeal only on grounds mentioned in Sections 593 and 594.

595. No special appeal shall lie except on the grounds mentioned in the two last preceding Sections.

596. No special appeal shall lie from any decree or order which shall be passed on regular appeal by any subordinate Court in any suit of the nature cognizable in Courts of Small Causes when the debt, damage, or demand for which the original suit shall be instituted, shall not exceed the sum of five hundred Rupees. Every such decree or order shall be final.

597. A special appeal shall be presented in the High Court by an Advocate of the High Court within the period of sixty days, unless the applicant shew cause to the satisfaction of the High Court for not having presented it within such period. The period shall be reckoned from and exclusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining copies of the decree and judgment appealed against.

598. The memorandum of appeal shall be written on a stamp paper of the value prescribed for regular appeals, and shall set forth concisely the grounds of objection to the decree appealed against without argument or narrative. Such grounds shall be numbered consecutively.

599. The memorandum of appeal shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court and of the Court of first instance.

600. The memorandum shall be signed by the Advocate who presents it, and such Advocate shall certify in writing on the back of the memorandum that he has considered the grounds stated for a special appeal, and that in his opinion such of the grounds as he shall refer to by their numbers are well founded and sufficient. No Vakeel shall give such certificate unless he shall have been authorized in that behalf by the High Court.

601. The appellant shall not without the leave of the Court, be heard in support of any ground of objection other than the grounds set forth in the memorandum.

602. If the memorandum of special appeal be not written on a stamp paper of the prescribed value, or if it be not drawn up and presented in the manner herein before prescribed, or if it be not signed or have not such certificate duly endorsed upon it as in Section 600 mentioned, or if it do not state any ground on which a special appeal will lie under the provisions of Section 593 or Section 594, the Court may reject the memorandum or may return it to the party for the purpose of being amended within a time to be fixed by the Court. The order for rejecting the memorandum or for returning it to the party may be passed by a single Judge of the Court.

603. If the memorandum is in due form, it shall be registered in a book to be kept for the purpose, which shall be in the form contained in the Schedule F hereunto annexed, and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules provided in Chapter IX for regular appeals, so far as the same are applicable.

604. No application for a special appeal shall be filed or argued before the High Court except by an Advocate of the Court who shall have signed the certificate required by Section 600.

605. The decrees passed in special appeal shall be executed by the Court which made the decree in the suit in which the special appeal was preferred, in the manner and under the rules provided in Chapter V for the execution of decrees in suits.

606. The High Court may call for the record of any case decided by a Court of Small Causes, or on appeal, by any subordinate Court, in which no appeal shall lie to the High Court, if such Court of Small Causes or such subordinate Court on hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law, or to have passed any order contrary to law.

CHAPTER XI.

OF REGULAR AND SPECIAL APPEALS IN FORMA PAUPERIS.

607. Any person entitled under this Code or any other law to prefer a regular or special appeal, who may be unable to pay

the stamp duty required for the petition of appeal may on application be allowed to appeal *in formâ pauperis*, subject to the rules contained in Chapters IX or X, according as the application may be for the admission of a regular or special appeal, in so far as those rules are applicable.

608. An application made under the last preceding Section to be allowed to appeal *in formâ pauperis* shall be written on a stamp paper of the value of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the High Court, and shall be presented in the Appellate Court within the period allowed for the presentation of a memorandum of regular appeal or of special appeal as the case may be.

609. The application shall contain the particulars required by this Code to be set forth in a memorandum of regular appeal or special appeal, as the case may be, and shall be drawn up in the like manner.

610. The application shall have annexed to it a Schedule* of any movable or immovable property belonging to the applicant, with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made, and, if the application be for the admission of a special appeal, of the judgment and decree of the Court of first instance.

611. If the application be for the admission of a regular appeal, and the Court, upon a perusal of the application and of the judgment and decree against which the appeal is made, shall see no reason to think that the decree appealed against is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust, or if the application be for the admission of a special appeal and the judgment and decree against which the appeal is made shall not appear to the Court, upon a perusal of the same and of the application, to be open to objection on any ground upon which a special appeal is admissible under Chapter X, the Court shall reject the application. The Court may also reject the application if it be not drawn up in the mode prescribed by this Chapter or if it do not bear the proper stamp: or the Court may return the application to the party presenting the same for the purpose of being amended within a time to be fixed by the Court. If the application lie to the High Court, the order rejecting it may be passed by a single Judge of the Court.

612. If the application be not rejected upon any of the grounds above mentioned, enquiry shall be made into the pauperism of the applicant. Such enquiry may be conducted either by the Appellate Court or by the Court against whose decision the appeal is made under the orders of the

Appellate Court: Provided that, if the applicant was allowed to sue or appeal *in formâ pauperis* in the Court against whose decree the appeal is made, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court shall see special cause to direct such enquiry.

613. The order passed by the Appellate Court on an application to be allowed to appeal *in formâ pauperis*, whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring a regular appeal or an application for a special appeal, on a stamp of the value prescribed for petitions of regular appeals from decrees, or for applications for a special appeal as the case may be.

CHAPTER XII.

OF APPEALS FROM ORDERS.

614. An appeal shall lie from the following orders:—

- (1.) From orders rejecting or returning complaints under Section 58, 59 or 60, with exception of orders passed under Clause 4 or Clause 5 of Section 58, Clause 4 of Section 59 and Clause 1 of Section 60:
- (2.) From orders passed against the defendant under Section 115, 116, 118, 120, 124, 135, 139 or 140:
- (3.) From orders rejecting applications made under Section 172 or 173 in cases open to appeal:
- (4.) From orders passed under Section 235, 256 or 259 for the sale of property attached:
- (5.) From orders passed under Section 332:
- (6.) From orders passed under Section 416 for setting aside, or under Section 417 for confirming, a sale:
- (7.) From orders passed under Section 431 and under Section 432, that the applicant shall be satisfied out of the proceeds of attached property:
- (8.) From orders passed under Section 435 in cases in which a regular appeal is allowed from the decree in the execution of which the order was passed:
- (9.) From orders passed under Section 447 that the defendant be discharged from Jail:
- (10.) From orders passed under Section 477 for issuing, or refusing to issue, execution on a bond.

615. An appeal shall lie from orders passed under the provisions of this Code, imposing fines or as to the levying of the fines so imposed, or for the imprisonment of any person except when such imprisonment is in execution of a decree.

616. When an appeal from an order is allowed by this Code or by any other law, it shall be heard by the Court competent to hear regular appeals from decrees of the Court which passed the order.

617. The period for presenting the appeal and the procedure thereon shall in all respects be the same as in a regular appeal from a decree in a suit, as prescribed in Chapter IX, the provisions of which shall apply to appeals from orders under this Chapter so far as they are applicable.

618. Unless when otherwise provided in this Code, no appeal shall lie from any order passed in the course of a suit and relating thereto, prior to decree; but if the decree be appealed against, any error, defect or irregularity in any such order, affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

619. Unless when otherwise provided in this Code, no appeal shall lie from any order passed after decree and relating to the execution thereof.

620. Unless when otherwise provided in this Code or by any other law, the orders passed in appeals preferred under this Chapter shall be final; but if in the course of the hearing of any such appeal any question of law or usage having the force of law, or the construction of a document, which construction shall affect the merits of the decision, shall arise, on which the Appellate Court shall entertain reasonable doubt, the Court may either of its own motion or on the application of any of the parties to the appeal, draw up a statement of the case, and submit it with its own opinion for the decision of the High Court.

621. The provisions contained in Sections 587 to 592, both inclusive, shall apply to references made to the High Court under the provisions of the last preceding Section.

622. Except as provided in this Code or in any other law, no appeal shall be allowed from any decree or order.

CHAPTER XIII.

REVIEW OF JUDGMENT.

623. Any person considering himself aggrieved—
Review of Judgment.

(a.) By a decree from which a regular appeal is allowed, but from which no appeal shall have been preferred—

(b.) By a decree passed in regular appeal from which a special appeal is allowed, but from which a special appeal shall not have been admitted—

(c.) By a decree from which an appeal is allowed to Her Majesty in Council, but from which no appeal shall have been preferred, or, if an appeal shall have been preferred, no proceedings shall have been transmitted to Her Majesty in Council—

(d.) By a decree passed in special appeal from which no appeal to Her Majesty in Council is allowed—

And who, from the discovery of new matter or evidence which was not within his knowledge or could not be adduced by him at the time when the decree was passed, or for any other good and sufficient reason, may be desirous of obtaining a review of the decree passed against him—may apply for a review of judgment to the Court which passed the decree.

624. The application, if the decree to which it refers was passed in a suit, shall be made within one month from the date of the decree, and within sixty days if the decree was passed in regular or special appeal, unless the party making the application shall be able to shew cause, to the satisfaction of the Court, for not having preferred the application within such limited period.

625. The application shall be written on the stamp paper prescribed for plaints, and shall set forth concisely and under distinct heads the grounds on which the review is applied for. Such grounds shall be numbered consecutively.

626. If the application be presented by an Advocate, he shall certify under his signature on the back of the application, that he has examined the grounds on which the review is applied for, and that he considers such of them as he shall refer to by their numbers well founded and sufficient.

627. No Advocate shall be allowed to argue in support of an application for a review of Judgment, who shall not have signed the certificate required by the last preceding Section, or if the application was presented by the applicant in person or by another Advocate, who has not signed a certificate to the same effect to be written on the back of the application.

628. If it appear to the Court that there is not sufficient ground for a review, it shall reject the application, but if the Court shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of

justice, it shall grant the review: Provided that no review shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree a review of which is applied for: Provided also that no review shall be granted by any Court subordinate to a District Court without the previous permission of such Court, and that no review shall be granted by a District Court without the previous permission of the High Court.

629. If the Judge or Judges or any of the Judges who shall have passed the decree, a review of which is applied for, shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the judgment to which the application refers, such Judge or Judges or any of them shall hear the application, and it shall not be competent to any other Judge or Judges of the Court in any such case to hear the application.

630. If the application for a review be heard by two Judges, and they differ as to whether the application should be admitted or rejected, the application shall be rejected.

631. If the application be heard by more than two Judges, the decision shall be according to the opinion of the majority, or if the opinions of the Judges be equally divided, according to the opinion of the Judge or Judges with whom the senior Judge concurs.

632. The order of the Court, whether for granting the review or rejecting the application, shall be final.

633. When an application for a review is granted, a note thereof shall be made in the Register of suits or appeals (as the case may be), and the Court may at once re-hear the case or make such order in regard to the re-hearing as it may deem proper.

634. Any order not subject to appeal may be reviewed by the Court by which it was passed subject to the rules contained in this Chapter so far as the same are applicable: Provided that no such review shall be granted by any Court subordinate to a District Court without the previous permission of such Court, and that no such review shall be granted by a District Court without the previous permission of the High Court.

CHAPTER XIV.

SPECIAL RULES RELATING TO THE HIGH COURTS.

635. The High Court may, in the exercise of its ordinary original Civil jurisdiction, try and determine suits of every description, if in the case of suits for immovable property the property shall be situate, or, in all other cases, if the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits to which the jurisdiction of the Court extends: Provided that no High Court shall, in the exercise of its ordinary original Civil jurisdiction, be empowered to try any case in which the debt or damage or value of the property sued for, does not exceed five hundred Rupees, and which falls within the jurisdiction of a Small Cause Court situate within the local limits of the ordinary original Civil jurisdiction of such High Court.

636. The High Court shall have power to remove and to try and determine as a Court of extraordinary original Civil jurisdiction, any suit being or falling within the jurisdiction of any Court subject to its superintendence, other than a Court of Small Causes, when such High Court shall think proper so to do, either on the agreement of the parties to that effect, or for purposes of justice, the reason being recorded in the proceedings of the High Court removing the suit.

637. The High Court, in the exercise of its ordinary original Civil jurisdiction, may try and determine suits instituted in such Court for immovable property, notwithstanding that such property may be situate partly within the local limits of its ordinary original Civil jurisdiction, and partly within the local limits of the jurisdiction of some other Court.

638. No instrument or writing of any of the kinds specified as requiring stamps in Schedule B annexed to Act X of 1862 (to consolidate and amend the law relating to stamp duties), or in this Code, shall, except as is herein otherwise provided, be filed, exhibited or recorded in, or shall be received or furnished by any High Court in any case coming before such Court in the exercise of its ordinary or extraordinary original Civil jurisdiction, unless such instrument or writing be upon a stamp of a value not less than that indicated by the said Schedule B as the proper stamp for similar instruments and writings in any Civil Court below the Sudder Court, or than that indicated by this Code, or in any case coming before such Court in the exercise of its Appellate jurisdiction, unless such instrument or writing be upon a stamp of a value not less than that indicated by the said Schedule B as the proper stamp for similar instruments and writings in the Sudder Court, or than that indicated by this Code.

639. If in a suit instituted in a High Court in the exercise of its ordinary

In certain cases
plaint to bear stamp
of 32 Rupees; and
Court after decree
to determine how
much more is to be
paid.

original Civil jurisdiction, or in appeal from a decision passed by a High Court in the exercise of such jurisdiction, the claim is not capable of being estimated at the selling price under Rule (e) of Article 11 of Schedule B of the said Act X of 1862, the plaint or petition of appeal shall be written on a stamp of the value of thirty-two Rupees. On the decision of such suit or appeal, if the decision be in favour of the plaintiff or appellant, the Court shall calculate the stamp duty payable, according to the rules above mentioned, on the amount or value of the property, if any, decreed or to which the right of the party in whose favour the decree is made is declared by the decree, whether immediately or contingently; and if such amount or value exceed the sum of five hundred Rupees, the Court shall declare what additional stamp duty shall be paid, so that the total amount paid may be the same as would have been payable had the suit or appeal been originally instituted for the amount or value so estimated by the Court. The additional stamp duty ordered to be paid shall be costs in the suit, and shall be paid out of any money recovered on account of such costs, whether at the instance of the Government or of any of the parties, before any other costs in the suit are paid to any of the said parties.

640. The High Court and the Division

High Court to
record judgments
and orders as it
shall by rule direct.

Courts and Judges of the High Court shall take evidence, record their judgments, and the orders passed by them in such manner as the High Court shall by any rule from time to time direct.

641. If a Division Court is composed of

Decision when
Judges of Division
Court differ.

more Judges than one, and the Judges are divided in opinion as to the decision to be given on any point, such point shall be decided according to the opinion of the majority of the Judges if there shall be a majority, but if the Judges shall be equally divided then the opinion of the senior Judge shall prevail.

642. Whenever a High Court or any Division

Execution may
issue in certain cases
before the amount
due for costs has
been ascertained,
and execution for
costs may issue sub-
sequently when
their amount is as-
certained.

Court or Judge of a High Court may consider it necessary that a decree made in the exercise of the ordinary original Civil jurisdiction of the said Court should be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Court or Judge may order that the decree shall be executed forthwith except as to so much thereof as relates to the costs; and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

643. Whenever in any suit or proceeding coming before a High Court in the exercise of its ordinary

Acts required to
be done by Advoca-
cate may be done by
an Attorney.

original Civil jurisdiction, or in any appeal coming before a High Court from a decision passed by such Court in the exercise of its ordinary original Civil jurisdiction anything is directed by this Code to be done by or through an Advocate, such act may be done by or through an Attorney-at-Law of the Court; provided that no

Proviso.

Attorney shall under the provisions of this Section plead in a High Court or in any Division Court or before a Judge of a High Court for any person.

644. Notices to produce documents, sum-

Process of High
Courts may be
served by Attor-
neys in suit.

monses to witnesses, and every other judicial process, issued in the exercise of the ordinary original Civil jurisdiction of the High Court, except writs of summons to defendants issued under Section 72 and writs of execution, may be served by the Attorneys in the suit or by persons employed by them, or in such other manner as the High Court shall by any rule or order from time to time direct.

645. If, in any suit instituted in the High

Power of Divi-
sion Court or Judge
of High Court to
refer matters for
investigation by a
single Judge.

Court in the exercise of its ordinary original Civil jurisdiction, the Division Court or Judge hearing such suit shall be of opinion that any matter of account, detail or other description may be more conveniently investigated by a Judge sitting in Chambers or by an Officer of the Court, it shall be lawful for such Court or Judge to refer such matter for the consideration of a Judge in Chambers or the Registrar or some other Officer, and such matter shall thereupon be investigated by such Judge or Registrar or other Officer, who shall proceed with such investigation and shall make his report thereon. Such report shall, if made by a Judge, be open to revision by any Court of Appeal to which the order or decree founded thereon may be appealable, and if made by the Registrar or other Officer shall be open to revision by the Judge by whom the matter was so referred, or by such other Judge as the Chief Justice shall appoint in that behalf. The Chief Justice shall from time to time determine in each case what Judge shall take or proceed with the investigation of any matter referred to a Judge under the provisions of this Section.

646. The High Court shall have power to

Power to make
rules.

make general rules and orders for regulating the conduct of business and the procedure of a single Judge, Registrar or other Officer in respect of investigations under the last preceding Section: Provided that such rules and orders shall not be inconsistent with the provisions of this Code or of any other law.

647. Whenever under any of the provisions of this Code the signature of a Judge of the High Court may be required, the signature of the Registrar or of any other Officer authorized in that behalf by the Chief Justice shall have the same effect as the signature of a Judge of the Court.

648. The Chief Justice of the High Court shall from time to time declare what language shall be the language of the Court, in which all or any of the proceedings of the Court shall be conducted.

649. The provisions of this Code relating to Assessors shall without any order of Government extend to suits and appeals instituted or tried in the High Courts.

650. Nothing contained in the eighth Section shall debar the High Court or any Judge of the High Court from rescinding or modifying any interlocutory order passed by it or him in the course of a suit.

651. Nothing in this Code shall be held to authorize a Vakeel to appear, plead or act in the High Court in the exercise of its original Civil jurisdiction.

652. The following Sections shall not apply to the High Court in the exercise of its ordinary original Civil Jurisdiction, namely, Sections 27, 28, 29, 30 and 34.

653. Any act not of a judicial nature which this Code requires to be done by a Judge, may be done by the Registrar of the Court or by such other Officer of the Court as the Court may direct to perform such act.

654. All summonses obtainable under this Act by the parties to a suit in the High Court, may be obtained from the proper Officer by the Attorneys of the parties respectively, and may be served by such Attorneys on the persons named therein, and all rules contained in this Code relating to the service of summonses shall apply to summonses obtained under this Section.

655. Nothing in this Chapter shall extend or apply to any High Court in the exercise of its jurisdiction as a Court of Admiralty or Vice-Admiralty, or as a Court of Testamentary and Intestate or of Matrimonial jurisdiction, or as an Insolvent Court.

656. This Chapter shall extend and apply only to High Courts which are or may hereafter be established under the Statute 24 and 25 Victoria, Chapter 104 (*An Act for establishing High Courts of Judicature in India*).

657. Except as provided in this Chapter, the provisions of this Code shall apply to the High Courts established as aforesaid.

CHAPTER XV.

OF CRIMINAL PROCEDURE FOR OFFENCES COMMITTED IN OR AGAINST THE COURTS.

658. When in a case pending before any Court, any person shall appear to the Court to have been guilty of an offence described in Section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209 or 210 of the Indian Penal Code, the Court may commit such person to take his trial for the offence before the Court of Session, or, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having jurisdiction to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law. (S. C. C. & R. C.)

659. The Court may send the person accused in custody or take sufficient bail for his appearance before the Magistrate, and may bind over any person to appear and give evidence before the Magistrate. (S. C. C. & R. C.)

660. When the commitment is made by the Court, the Court shall frame a charge in the manner provided in Chapter XIII of the Code of Criminal Procedure, and shall send the same with the order of commitment and the record of the case to the Magistrate, and such Magistrate shall bring the case together with the witnesses for the prosecution and defence before the Court of Session. (S. C. C. & R. C.)

661. When any person shall appear to the Court to have been guilty in any suit or proceeding before such Court of any of the offences described in Sections 172, 173 and 174 of the Indian Penal Code, the Court may direct the

person accused to be brought before it, and may either proceed as provided in Section 671 of this Code, or may send him in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate, and the Magistrate shall thereupon proceed according to law.

662. When in a case pending before any Court, there shall appear to the Court sufficient ground for sending for investigation to the Magistrate a charge of any such offence as is described in Section 463, 471, 475 or 476 of the Indian Penal Code, which may be preferred in respect to any document offered in evidence in the case, the Court may send the person accused in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate. The Court shall send to the Magistrate the evidence and documents relevant to the charge, and shall bind over any person to appear and give evidence before such Magistrate. The Magistrate shall receive such charge and proceed with it according to law. (S. C. C. & R. C.)

663. If the person accused in any case falling under Section 658 or Section 662 of this Code, is a European British subject, the Court shall send such person in custody or take sufficient bail for his appearance before an Officer empowered to commit or hold to bail persons charged with offences for trial before a High Court of Judicature, and such Officer shall proceed according to law. (S. C. C. & R. C.)

664. When any such offence as is described in Section 175, 178, 179, 180 or 228 of the Indian Penal Code, is committed in the view or presence of the Court, the Court may cause the offender, whether he be a European British subject or not, to be detained in custody, and may, at any time before the rising of the Court on the same day, take cognizance of the offence, and adjudge the offender to punishment by fine not exceeding two hundred Rupees, and by imprisonment in the Civil Jail for a period not exceeding one month if such fine be not sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. (S. C. C. & R. C.)

665. If the Court shall consider that a person accused of any of the offences mentioned in the last preceding Section should be imprisoned, or that a fine exceeding two hundred Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt and the statement of the accused person as hereinbefore provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the

Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace, or if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. (S. C. C. & R. C.)

666. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by the Statute 53 Geo. III, Cap. 155, Section 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a High Court of Judicature. (S. C. C. & R. C.)

667. When any person has been sentenced by the Court to punishment under Section 664 for refusing or omitting to do any thing which he was lawfully required to do, it shall be competent to the Court to discharge the offender or to remit the punishment on the submission of the offender to the order or requisition of the Court. (S. C. C. & R. C.)

CHAPTER XVI.

MISCELLANEOUS.

668. The High Court shall have power to make and issue general rules not inconsistent with the provisions of this Code or of any other law for regulating the practice and proceedings of that Court and the Courts subordinate thereto and from time to time to alter any such rules. Any rules framed under this Section shall be published in the Official Gazette of the place where the High Court is held. (S. C. C. & R. C.)

669. The High Court shall also have power to frame forms for every proceeding in such Court and the subordinate Courts for which the High Court shall think it necessary that forms should be provided; for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted by such Courts.

670. When in any part of British India in which this Code shall have operation, the highest Civil Court of appeal consists of a single Judge, he shall have all the powers vested by this Code in two or more Judges of the High Court.

If highest Court of appeal consist of only one Judge, he has all the powers of two or more High Court Judges.

671. The language which, at the time this Code comes into operation, is the language of any subordinate Court, shall continue to be the language of such Court until the Local Government shall otherwise order; but it shall be lawful for the Local Government from time to time to declare what language shall be the language of every such Court in which all or any of the proceedings shall be conducted. (S. C. C. R. C.)

Language of subordinate Courts.

672. The Local Government shall fix the establishments of Ministerial and other Officers requisite for the Courts other than the High Court within the limits of its jurisdiction, and, with the sanction of the Governor-General of India in Council, shall assign to such Officers such salaries as from time to time such Government may deem proper. (S. C. C. & R. C.)

Ministerial Officers.

673. The High Court shall define and prescribe the duties to be performed by the Ministerial and other Officers on its establishment as well as by the Ministerial and other Officers on the establishments of subordinate Courts. (S. C. C. & R. C.)

High Courts to define duties of all Ministerial Officers.

674. No person shall be liable to arrest under this Code while attending, going to, or returning from the Court either in obedience to a summons or as a party to a suit, appeal or other proceeding.

Persons exempt from arrest.

675. Nothing in this Code shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Pancháyats under the provisions of the Madras Code; or the jurisdiction or procedure of Military Courts of Request: or the jurisdiction and appointed under the rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazzars at Cantonments and Stations occupied by the Troops of those Presidencies respectively; or by Pancháyats in regard to suits against Military persons, according to the rules in force under the Presidency of Madras.

Saving of jurisdiction and procedure of Village Moonsiffs and Village and District Pancháyats in Madras—

of Military Courts of Request—

or procedure of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Madras and Bombay—

of single Officers appointed to try small suits in Madras and Bombay—

suits in Military Bazzars at Cantonments and Stations occupied by the Troops of those Presidencies respectively; or by Pancháyats in regard to suits against Military persons, according to the rules in force under the Presidency of Madras.

676. Nothing in this Code shall be held to affect the jurisdiction exercised by certain Jaghirdars and other authorities invested with powers under the provisions of Regulation XIII, 1830 of the Bombay Code (for vesting certain Jaghirdars, Surinjamidars, and Enamdars with the power of deciding suits within the boundaries of their respective estates), and Act XV of 1840 (for extending Regulations XV, 1827, and XIII, 1830, of the Bombay Code to the Agents of Foreign Sovereigns) or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI, 1816, of the Bengal Code (for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zillah Cuttack) or cases of the nature defined in Regulation XXIX, 1827 (for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh), Regulation VII, 1830 (for bringing under the operation of the Regulations the Territories comprised in the Southern Mahratta Country), Regulations I and XVI, 1831 of the Bombay Code (for extending the jurisdiction of the Agent of Government in the Dekkan and Khandesh and of the Political Agent in the Southern Mahratta Country over suits in which certain privileged persons are concerned), Act XIX of 1835 (relating to the jurisdiction and authority of the Assistant to the Agent for Sirdars in the Dekkan), and Act XIII of 1842 (to enable the holders of revenue which has been alienated to them by the State to collect that revenue within the Presidency of Bombay), except that such suits and cases and the regular and special appeals to the Civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Code, unless where those rules are inconsistent with any specific provisions contained in the Regulations and Acts mentioned in this Section.

To what extent this Code applies to them.

677. Save as hereinafter provided, this Code shall not extend to any suit or proceeding in any Court of Small Causes established under Act IX of 1850 (for the more easy recovery of Small Debts and Demands in Calcutta, Madras and Bombay): but the Local Government within the limits of whose jurisdiction any such Court is held, may, by notification published in the Official Gazette, extend to such Court this Code or any part thereof which relates to Courts of Small Causes except as to appeals and reviews of judgment.

This Code not to apply to Presidency Small Cause Courts, till specially extended to them.

678. This Code shall not extend to any part of British India in which Act VIII of 1859, as amended by Act XXIII of 1861, shall not be in force at the date of the passing of this Code until it shall have been specially extended to such part by an order of the Governor-General of India in Council or of the Local Government, duly published in the Official Gazette.

Parts of British India excepted from operation of this Code.

679. This Code shall not be deemed to repeal or affect the following provisions, and parts of Act I of 1862, (to define the jurisdiction and to regulate the procedure

This Code not to affect certain provisions of Act I of 1862.

of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory; that is to say, it shall not be deemed to repeal or affect so much of Section 7 as relates to the second appeal, or Sections 8, 10, 11, and 12, or Section 14 so far as it relates to the time for appeals whether regular or otherwise, or Section 15, or Section 16 so far as it relates to the time for appeals, or Section 17, except that the grounds on which a special appeal may be allowed as therein referred to shall be such grounds as are specified in Section 594 or Section 595 of this Code, or Section 29 so far as it relates to the stamp paper on which applications may be written and the time for appealing, or Section 27.

680. Nothing in this Code shall be deemed to repeal or affect the operation of Act XI of 1863 (to consolidate and amend the Law relating to the employment and remuneration of peons for the service and execution of Civil process) or Act V of 1863 of the Council of the Lieutenant-Governor of Bengal (to amend the Law relating to the employment and remuneration of peons for the service and execution of the process of the Civil and Revenue Courts). (S. C. C. & R. C.)

681. When in any Act passed prior to the coming into operation of this Code, reference is made to Act VIII of 1859, Act XXIII of 1861, or the "Code of Civil Procedure," such references shall be read as applying to this Code, and when any procedure is directed to be in accordance with the provisions of Act VIII of 1859, Act XXIII of 1861, or the "Code of Civil Procedure," such procedure shall

be deemed to be directed to be in accordance with the provisions of this Code. (S. C. C. & R. C.)

682. The procedure herein prescribed shall be followed from the date on which this Code shall come into operation, in all suits and appeals, regular, special or otherwise, and, as far as it can be made applicable, in all miscellaneous cases and proceedings instituted in any Court. But this Code shall not in any way invalidate or alter the effect of any thing which shall have been done in any suit, appeal, miscellaneous case, or proceeding prior to such date, and every thing which shall have been so done shall be deemed good and shall have effect so far as circumstances will permit, in like manner as if the same had been done in due course under this Code: Provided that no party to whom a right of appeal, whether regular, special or otherwise, shall have accrued under any law for the time being in force before this Code shall have come into operation, shall be deprived of such right by any thing contained in this Code, if he shall exercise such right by preferring his appeal to the proper Court in due form within the time allowed for preferring appeals by the law under which the right of appeal accrued. (S. C. C. & R. C.)

683. The Governor General of India in Council may invest the Chief Executive Officer of any part of British India under the immediate administration of the Government of India with the powers vested by this Code in a Local Government.

684. This Code shall come into operation on the day of 186. (S. C. C. & R. C.)

SCHEDULE A.

ENACTMENTS REPEALED.

Number and date of Regulations.	Title.	Extent of repeal.
	BENGAL.	
Regulation III of 1793 - - -	For extending and defining the jurisdiction of the Courts of Dewanny Adawlut, or Courts of Judicature for the trial of Civil suits in the first instance, established in the several Zilas, and in the cities of Patna, Dacca, and Moorsshedabad - - -	Section 14.
IV of 1793 - - -	For receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zilas, and in the cities of Patna, Dacca, and Moorsshedabad - - -	Sections 14 and 20.
VI of 1793 - - -	For extending and defining the powers and duties of the Court of Sudder Dewanny Adawlut, and prescribing Rules for receiving and deciding upon Appeals from the decisions of the Provincial Courts of Appeal - - -	Sections 13 and 14.
X of 1795 - - -	For empowering the Sudder Dewanny Adawlut to receive and decide upon Appeals from Decisions of the Provincial Court of Appeal established in the Province of Benares; and for defining the jurisdiction, powers, and authorities of the Sudder Dewanny Adawlut in that Province - - -	Sections 1 and 4.
II of 1798 - - -	For authorizing a Review of Causes decided by the Civil Courts in certain cases; and for explaining Parts of Regulations IV, V and VI, 1793 - - -	Sections 1 and 4.
II of 1801 - - -	For the more speedy and effectual administration of justice in the Courts of Sudder Dewanny and Nizamut Adawlut - - -	Sections 1, 2, 5 and 6, so far as they relate to the Sudder Dewanny Adawlut.
XII of 1811 - - -	For augmenting the number of Judges of the Courts of Sudder Dewanny Adawlut, according as may from time to time appear necessary for the despatch of the business of those Courts - - -	So far as it relates to the Sudder Dewanny Adawlut.

Regulation XXV of 1814 -	BENGAL.—(Continued.)	Section 18, so far as it relates to the Sudder Dewanny Adawlut.
III of 1829	For modifying the constitution and jurisdiction of the Sudder Dewanny Adawlut and of the Provincial Courts, for expediting the trial of Civil Causes in those Courts, and for defining more fully the powers of single Judges holding the sittings of those Courts, or of the Nizamut Adawlut and Courts of Circuit For abolishing certain Official Designations amongst the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, and of the Provincial Courts; for amending the Rules at present in force, which require the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, or other public Officers, to take the prescribed Oaths of Office before the Governor General in Council; for providing for the Decision of Civil Suits and Appeals in the Provincial Courts in certain Cases; for amending Regulation VIII of 1825, and for dis- continuing the Offices of Hindu and Mahomedan law Officer in the Provincial Courts	Sections 1, 2 and 3.
VI of 1831	For the appointment of one or more Judges to be ordinarily stationed at Al- lahabad for the purpose of exercising the powers and authority of the Sud- der Dewanny and Nizamut Adawlut within the Province of Benares, the ceded and conquered Provinces, including the Districts of Meerut, Shaha- runpoor, Mozuffurnuggur, and Boolundshuhur, which are now subject to the Chief Commissioner at Delhi, and the powers and authority of the Niza- mut Adawlut in the Province of Kumaon and the Saugor and Nerbudda Territories	Section 7, so far as it relates to the Court of Sudder Dewanny Adawlut.
IX of 1831	For the more speedy and efficient administration of justice in the Courts of Sudder Dewanny and Nizamut Adawlut	Section 9, so far as it relates to the Court of Sudder Dewanny Adawlut.
VI of 1832	For enabling European functionaries to avail themselves of the assistance of respectable Natives in the administration of Civil or Criminal Justice, and for modifying or dispensing with Futwas by Mahomedan Law Officers in certain trials	So far as it relates to Courts for the administration of Civil Justice.
V of 1802	MADRAS. For constituting a Sudder Adawlut, or Chief Court of Civil Judicature, for trying Appeals from the decisions of the Provincial Courts of Appeal	Sections 11, 12, 14, 17, 22 and 28.

Number and date of Acts.	Title.	Extent of repeal.
Act XXIII of 1840	For executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by authorities in the Mofussil - }	So far as it relates to the execution of the process of Civil Courts.
" XII of 1849	For improving the jurisdiction of the Sudder Adawlut of Bombay, and for amending Section 36 Regulation II, 1827 of the Bombay Code - }	The whole.
" II of 1851	To amend Regulation XIII, 1810 of the Bengal Code, for the trial of Appeals - }	The whole.
" VII of 1855	To amend the law of arrest on mesne process in Civil actions in Her Majesty's Courts of Judicature and to provide for the subsistence of prisoners confined under Civil process of any of the said Courts - }	The whole.
" VIII of 1859	For simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter - }	The whole.
" XXIII of 1861	To amend Act VIII of 1859 (for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter) - }	The whole.
" X of 1862	To consolidate and amend the Law relating to Stamp Duties - }	Sections 17 and 20.
" IX of 1863	To amend the Code of Civil Procedure - }	The whole.
" XVIII of "	To make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its original Civil jurisdiction - }	Sections 5, 7, 8, 10, and 11.

Court of the of holden at
REGISTER OF CIVIL SUITS in the year 18 .

[82]

SCHEDULE C.

No. of Suit.

In the Court of at

To

(Name, description, and address.)

Plaintiff.

Defendant

Whereas [here enter the name, description, and address of the plaintiff] has instituted a suit in this Court against you [here state the particulars of the claim as in the Register]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [if not specially required to appear in person, state—"in person or by an Advocate of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"] to answer the above-named plaintiff. [If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"] and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

SCHEDULE D.

No. of Suit.

In the Court of at

To (Name, description, and address.)

You are hereby summoned to appear in this Court in person on the day of at in the forenoon, to give evidence on behalf of the plaintiff (or the defendant) in the above-mentioned suit, and to produce (here describe with convenient certainty any document the production of which may be required. If the Summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly): and you are not to depart thence without the leave of the Court.

Plaintiff.

Defendant.

SCHEDULE E.

Court (or High Court) at REGISTER OF APPEALS FROM DECREES IN THE YEAR 18

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.					APPEARANCE.			JUDGMENT.	
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE F.

High Court at REGISTER OF SPECIAL APPEALS.

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit, and of Appeal.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

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The Calcutta Gazette.

WEDNESDAY, JANUARY 4, 1865.

Home Department.

LEGISLATIVE.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd December 1864, and was referred to a Select Committee, with instructions to make their report thereon in three weeks:—

No. 27 of 1864.

A Bill to amend Act XXV. of 1864 (to provide for the solemnization of Marriages in India of persons professing the Christian Religion.)

WHEREAS it is expedient to amend Act XXV of 1864, (to provide further for the solemnization of Marriages in India of persons professing the Christian Religion); It is enacted as follows:—

Preamble.

1. From and after the passing of this Act, for the following words in the seventh Section of Act XXV of 1864:—"By a Clergyman of the Church of England according to the rites, rules, ceremonies, and customs of that Church," shall be substituted the following words:—"By a Clergyman who, has received episcopal ordination according to the rites, rules, ceremonies, and customs of the Church of which he is a minister," and such words shall form portion of the said Section.

Act XXV of 1864, Section 7, not to apply to Clergymen of the Church of Rome licensed to solemnize marriages between

7 P. M. and 6 A. M.
2. The provisions of the twenty-fourth Section of Act XXV of 1864 shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese in which such marriage shall so be solemnized, or from such person as the said Bishop shall have authorized to grant such license. And the said twenty-fourth Section shall be read as if the foregoing part of this Section were added thereto as a proviso.

3. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese; and the twenty-fifth Section of Act XXV of 1864 shall be construed as if the former part of this Section were inserted in the same Act next after its twenty-sixth Section.

4. From and after the passing of this Act, Part V of Act XXV of 1864, not to apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate marriages (if any) previously contracted between Roman Catholics under the provisions of the said part.

5. The following words shall be added to and shall form part of the fifty-second Section of Act XXV of 1864:—"or to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome when he shall have received such general or special license in that behalf as hereinbefore mentioned."

6. In the fifty-fifth Section of Act XXV of 1864 after the words "Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies, and customs of that Church," shall be introduced the following words:—"or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies, and customs of that Church," and such words shall be read as part of the same Section.

7. To the sixtieth Section of Act XXV of 1864, the following words shall be added: The words "Church of Rome" and "Roman Catholic," wherever used in this Act,

shall mean and apply to the Church which regards the Pope of Rome as its spiritual head.

8. The provisions of this Act and of Act XXV of 1864 as amended by this Act shall extend to the territory subject to the Government of the Straits Settlement; and the Governor of such Settlement for the time being shall have authority to grant licenses to ministers of religion to solemnize marriages within the territories subject to his Government.

9. The Supreme Court of Judicature in the Straits' Settlement shall have power to try offences punishable under Act XXV of 1864, and committed within the limits of such Settlement; and the charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court is regulated.

Form annexed to this Act to be substituted for Schedule C to Act XXV of 1864.

Form of Register of Marriages.

Quarterly Returns
of
MARRIAGES,
for

The Archdeaconry of .. { *Calcutta,*
Madras,
Bombay.

I, Registrar of the Archdeaconry of $\left. \begin{array}{l} \text{Calcutta,} \\ \text{Madras,} \\ \text{Bombay,} \end{array} \right\}$ do hereby certify, that the annexed are correct copies of the original and official Quarterly Returns of Marriages within the Archdeaconry of $\left\{ \begin{array}{l} \text{Calcutta,} \\ \text{Madras,} \\ \text{Bombay,} \end{array} \right.$ as made and transmitted to me for the Quarter commencing the *First day of January* ending the *Thirty-first day of March*, in the Year of Our Lord One Thousand Eight Hundred and Sixty-five.

Signature of Registrar.

Registrar of the Archdeaconry of { *Calcutta,*
 { *Madras,*
 { *Bombay.*

MARRIAGES solemnized at { *Allahabad,*
Barrackpore,
Bareilly,
Calcutta, &c., &c.

[illegible]

STATEMENT OF OBJECTS AND REASONS.

THE principal object which the present Bill seeks to attain is the relief of the members of the Church of Rome residing in India from the operation of certain provisions in Act XXV of 1864 which are stated to have inflicted hardship upon them.

2. The Bill also provides that the operation of Act XXV of 1864 shall extend to the territories subject to the Government of the Straits Settlement, and indicates the manner in which offences committed against that Act in the said territories shall be disposed of.

The 22nd December 1864.

H. L. ANDERSON.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Department (Legislative.)

ORDERS by the LIEUTENANT-GOVERNOR OF BENGAL.

No. 6730.

APPOINTMENTS.—*The 1st December 1864.*—The Reverend William Crichton Fyfe, of Calcutta, is licensed to solemnize marriages under Clause 4, Section II., Part I., Act XXV. of 1864, and is also licensed, under Section XLI., Part V. of that Act, to grant certificates of marriages between Native Christians being converts from any religion in India.

The 20th December 1864.—Lieutenant-Colonel H. Bruce, C. B., to be Inspector-General of Police in the Lower Provinces.

Mr. C. F. Carnac to be Civil and Sessions Judge of Jessore, but to continue to officiate as Inspector-General of Police until relieved by Lieutenant-Colonel Bruce.

The 21st December 1864.—The following Officers to be ex-officio Visitors of the Lunatic Asylum at Cuttack, viz.:—

The Commissioner.

The Judge.

The Magistrate.

The Regimental Medical Officer of the Station.

The 22nd December 1864.—The Spadder Ameen of Golaghat is vested, temporarily, with the powers of a Magistrate in Nowgong and Sebsaugor.

The 23rd December 1864.—Lieutenant E. G. Lillingston, Assistant Commissioner of Lohardugga, is vested with the powers of a Magistrate in that District.

The 24th December 1864.—Mr. E. H. Whinfield to be a Joint Magistrate and Deputy Collector of the Second Grade in Chumparun, but to continue to officiate as Joint Magistrate and Deputy Collector of Rajshahye until relieved by Mr. Humphery.

The 28th December 1864.—Baboo Poran Chunder Newgy to be a Deputy Magistrate under Act XV. of 1843, and a Deputy Collector under Regulation IX. of 1833, in the Bhaugulpore Division, and to be stationed at Bhaugulpore, and is vested with the powers of a Subordinate Magistrate of the Second Class, described in Section XXII. of the Code of Criminal Procedure, (Act XXV. of 1861,) in any or all the Districts of that Division.

Baboo Kally Prosonno Roy Chowdhry to be Uncovenanted Assistant to the Commissioner of Bhaugulpore.

The 29th December 1864.—Mr. A. Rattray, Deputy Magistrate and Deputy Collector of Nugwan, is vested, under Section II., Act IX. of 1835, with the Judicial powers of a Superintendent of Salt Chowkies prescribed by Regulation X. of 1819 and Act XXIX. of 1838.

Moulvy Abdoor Rohaman to officiate as a Deputy Magistrate and Deputy Collector in the Sub-Division of Jehanabad, and is vested with the powers of a Magistrate in Hooghly and Burdwan.

LEAVES OF ABSENCE.—*The 23rd December 1864.*—Mr. K. H. Stephen, Deputy Magistrate and Deputy Collector of Manickgunge, for three months, under the Financial Notification dated the 31st July 1863.

Mr. T. Wilson, Sub-Deputy Opium Agent of Benares, for one month, under paragraph 16 of the Uncovenanted Service Absentee Rules, from the date on which he may make over charge of

his Office to Mr. C. M. Armstrong, Sub-Deputy Opium Agent of Ghazee-pore, who will conduct the duties of the Benares Division in addition to his own.

Moulvy Dullelooddeen, Deputy Magistrate and Deputy Collector, for two months, under paragraph 11 of the Uncovenanted Service Absentee Rules, in extension of the leave granted to him on the 7th September last.

The 28th December 1864.—Mr. J. A. Ricketts, Deputy Magistrate and Deputy Collector of Howrah, for one month, under paragraph 16 of the Uncovenanted Service Absentee Rules, from the 27th instant, or any subsequent day on which he may avail himself of the leave.

Mr. A. Blair, Assistant Superintendent of Police, Lohardugga, for one month, under paragraph 16 of the Uncovenanted Service Absentee Rules.

NOTIFICATIONS.—*The 23rd December 1864.*—The leave granted on the 7th September last to Shahebzada Ahmed Ally Khan, Deputy Magistrate of Terrai Sub-Division, Darjeeling, will have effect from the 4th October, the date on which he availed himself of it, and not from the 25th September, as notified in the *Calcutta Gazette* of the 5th October.

The 24th December 1864.—The services of Dr. C. Archer, Civil Surgeon of Dacca, are placed at the disposal of the Government of India in the Military Department at his own request.

The following Order issued by the Government of India in the Foreign Department is re-published for information:—

No. 639.—*The 28th December 1864.*—It is hereby notified for general information that Quarantine Regulations will be established at Bussorah from 1st January 1865, and that the British Agents at Aden, Muscat, and Bushire, as well as the Collectors of Customs at the different Ports, are empowered to grant Bills of Health to British Vessels trading with the Ports of Turkey.

The following Order issued by the Government of India in the Financial Department is re-published for information:—

No. 4238.

The 29th December 1864.

RESOLUTION.—In order to secure the admission of qualified persons to the subordinate situations in the Establishments of the Offices of Account and Audit, the Governor General in Council is pleased to determine that the following Rules shall be observed:—

1st.—The minimum age of admission will be eighteen years.

2nd.—Every candidate must be certified by competent medical evidence to be of sound bodily health.

3rd.—The respectability of his character must be attested by two trustworthy persons.

4th.—He must pass a satisfactory examination in—English orthography and hand-writing—tested by writing from dictation.

English Composition.

Arithmetic up to, and inclusive of, vulgar and decimal fractions.

Reading and speaking the vernacular language of the Province.

2. When a vacancy occurs in the lowest class in any Office of Account or Audit, the Head of the Office, after selecting one or more candidates, will require from each the necessary certificates under headings 1, 2, and 3.

3. If these certificates are satisfactory, the Head of the Office will, with the permission of the Local Government, arrange with the Director of Public Instruction for the candidates being examined in the subjects described under the 4th head, and for the result of the examination being reported to him.

4. The best of the candidates who are reported to be properly qualified will then be appointed to the vacancy, and the Head of the Office will, at the same time, enter the